

VERDICT IS VINDICATION

Persons charged under Section 66A of Information Technology Act heave a sigh of relief after the Supreme Court's landmark verdict

I am very happy with the verdict. It's a victory of the people who want to raise their voice against the wrong doings. I have got justice today.
— **RINU SHRINIVASAN**, ARRESTED ON NOV. 19, 2012 FOR FACEBOOK POST QUESTIONING SHUTDOWN OF MUMBAI FOR SHIV SENA PATRIARCH BAL THACKERAY'S FUNERAL

It's a big day and it is the victory of citizens' right to freedom of speech and expression
— **ASEEM TRIVEDI**, ARRESTED ON SEPTEMBER 10, 2012 FOR CARTOONS ALLEGEDLY MOCKING THE CONSTITUTION

I am happy that Section 66A has been scrapped but I had a very rough time when I was booked under the provision which entailed a jail term of three years
— **CLASS 12 STUDENT**, HELD FOR FACEBOOK POST AGAINST SP LEADER AZAM KHAN

Section 66A should have been scrapped earlier. Under this Section, common people in several States came under the wrath of the State government for making anti-administration remarks... the same thing what happened to me
— **AMBIKESH MAHAPATRA**, HELD IN 2012 FOR POSTING A CARTOON OF MAMATA BANERJEE ON FACEBOOK

LIBERTY OF THOUGHT, EXPRESSION UPHeld

Supreme Court allows Section 69A which empowers authorities to block websites

AAP, Left parties welcome verdict

Smita Gupta

NEW DELHI: The Left parties and the Aam Aadmi Party have wholeheartedly welcomed the Supreme Court's verdict scrapping Section 66A of the IT Act that made posting offensive comments online punishable with a jail term. The Janata Dal (United) and the Samajwadi Party, on the one hand, and the Shiv Sena on the other — ideologically worlds apart — were united in their disagreement with the apex court.

But the two largest parties in the country, the BJP and the Congress gave calibrated responses: while welcoming the court's ruling, both parties added caveats. Interestingly, the Left parties and the Aam Aadmi Party accused the BJP and the Congress of taking the "same anti-democratic position" on the issue in the court.

The CPI(M) used it to hit out at its political rival, the Trinamool Congress, saying the apex court had sent the "correct message" to State governments such as that of West Bengal that they cannot suppress dissent, says CPI(M)

Court has sent a message to States such as West Bengal that they cannot suppress dissent, says CPI(M)

If the Congress's guarded reaction reflected the party's need not to denounce something that it had helped put on the statute book while in power, the statement from the BJP — that it would need to study the verdict before giving a structured response — was in consonance with the Modi government's affidavit in the case.

The Congress said it was "deeply conscious of the fact that one person's individual liberty of expression cannot unilaterally infringe upon another person's liberty." It, however, acknowledged that the safeguards that it wove into the Act had been found insufficient by the Supreme Court.

The Congress targeted the BJP, speaking of its "ever shifting stand on the issue... as BJP and Shri Arun Jaitley termed the law as 'online emergency' while in Opposition and justified the same when in power through an affidavit in the Supreme Court by stating that Section 66A was necessary to regulate the use of cyberspace."

However, former Union Minister P. Chidambaram was unequivocal, welcoming the judgment and saying, "The Section was poorly drafted... was capable of being misused and, in fact, it was misused."

As for the BJP, even though its counsel defended the constitutional validity of Section 66A, the Modi government maintained that it respects freedom of speech and expression and is not in favour of curbing dissent on social media.

"Our government took a very conscious decision that we don't support the stand of the previous government," Union IT Minister Ravi Shankar Prasad said.

The JD(U)'s Sharad Yadav said that though he respected the judiciary, it was wrong to strike down the "good" provision as freedom of speech does not mean "freedom to abuse." The Shiv Sena felt it would weaken the hands of the law enforcement agencies against those who "misuse" the social media.

The SP's Azam Khan, who had hit the headlines after a student was arrested for allegedly posting an "objectionable" remark against him, hit out at the media, accusing it of "supporting criminals", when asked about the apex court's judgment.

Palghar girls hail verdict, lawyer has doubts

Vinaya Deshpande & Shubhomoy Sikdar

MUMBAI: Two Palghar girls, their families, and the lawyer who represented them welcomed the Supreme Court decision on Tuesday to hold unconstitutional Section 66A of the Information Technology Act.

Close friends Shaheen Dhada and Rinu Srinivasan were arrested after Shaheen posted a status update on Facebook on the day Shiv Sena enforced a bandh, crippling life in Mumbai, Thane, and Navi Mumbai on the day of Sena leader Bal Thackeray's funeral on November 18, 2012. Rinu was booked for merely clicking 'Like' on the post.

Reacting to the Supreme Court decision, lawyer Sudhir Gupta, who represented Shaheen and Rinu, told *The Hindu*, "It was a VIP section. If you see, in most of the cases, it was used under political pressure. It targeted the youth, as they hold the key to the Internet revolution today."

He said the "VIP and political culture" of the country had got many youths into trouble for merely expressing themselves. "Even today, people think twice before writing anything on social media," he said.

Mr. Gupta expressed fear that the Supreme Court verdict might not change anything at the ground level. "There are so many good Supreme Court judgments. But nothing percolates to the lower judiciary and



Rinu Srinivasan, who was arrested for 'liking' a Facebook comment on the shutdown in Mumbai following Bal Thackeray's death, with her parents, in Ahmedabad on Tuesday. — PHOTO: PTI

the police, which go on grossly misusing their powers," he said, adding that no one takes the rights of the arrested person seriously.

"The constitutional rights, fundamental rights of the arrested person, are hardly taken seriously in the lower judiciary," he said.

Shattering impact

Though the arrest sparked immediate outrage in the media, and built pressure on

the government to quash charges against the girls, the episode caused them considerable mental agony and affected their lives in other ways, Rinu and Shaheen's family members told *The Hindu*.

Rinu, for instance, had to defer her admission to an audio engineering diploma programme in Kerala by six months.

Shaheen's father Farukh Dhada, too, said that though the family had always stood by

Shaheen, a police case against a family member left its stigma.

"Though violating Section 66A of the IT Act was a bailable offence, the police also slapped the non-bailable Section 295-A (deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs) of the Indian Penal Code compounding our problems. This was unwarranted," Mr. Dhada said.

Though both families were critical of the Section, Rinu says, some restriction on online content was justified.

"Posts should not be abusive. Of course, in arresting us, the police did grave injustice as there was nothing offensive in Shaheen's post. This can't be said about every post as there are many which are vulgar and indecent," she said adding that since the incident, she was extra cautious about what she posted.

Soon after their arrests, Shaheen and Rinu became poster girls for the right to freedom of speech and expression with institutions from Mumbai University to the Indian Institute of Management, Ahmedabad, inviting them to share their experience.

On the day, the verdict was delivered neither was present in Palghar.

While Shaheen got married in January 2014 and is now settled in Bengaluru, Rinu is currently on a trip to Ahmedabad.



Ambikesh Mahapatra

Kathakali Nandi

KOLKATA: Terming the Supreme Court's decision to quash Section 66A of the Information and Technology Act "landmark and historic", Jadavpur University Professor Ambikesh Mahapatra said here on Tuesday that the Supreme Court had rightly upheld the right to freedom of expression. He, however, expressed scepticism at the West Bengal government's lack of response at the decision.

Prof. Mahapatra and his neighbour, Subrata Sengupta, were victims of the Section and arrested for circulating through e-mail a cartoon on West Bengal Chief Minister Mamata Banerjee in 2012.

"Section 66A was being used by governments to clamp down on free speech and was restricting citizens from freely expressing themselves. The Supreme Court's decision comes as a huge relief to people like me who were wrongly arrested," Prof. Mahapatra told *The Hindu*.

Earlier this month, acting on the directions of the West Bengal Human Rights Commission, the Calcutta High Court directed the Trinamool Congress government to pay an additional compensation of Rs. 50,000 to Prof. Mahapatra and Mr. Sengupta for their arrests.

Earlier, the Human Rights Commission had also directed the State government to pay Rs. 50,000 to the professor and his neighbour.

FB post: only partial relief to teenager

Mohammad Ali



MEERUT: The Supreme Court verdict striking down Section 66A of the Information Technology Act which allowed arrests for objectionable content online, has given only partial relief to Gulrez Khan, aka Vicky, the Bareilly teenager who was arrested last week for allegedly sharing a fake statement of Azam Khan on Facebook. He has been released on bail.

Mr. Khan was booked under Section 66A of the Information Technology Act and Sections 153A (promoting enmity between different groups on grounds of religion, race, etc), 504 (intentional insult with intent to provoke breach of peace) and 505 (public mischief) of the IPC. Sadhna Goswami, Superintendent of Police, Rampur, said the case under Section 66A would stand nullified following the judgment.

But other charges were likely to stay. Mr. Khan's father Awez Khan has appealed to the State

Family of Gulrez Khan celebrate the Supreme Court decision in Bareilly on Tuesday. Gulrez was recently arrested for posting comments on a social networking site. — PHOTO: PTI

government to withdraw them.

Mr. Awez Khan told *The Hindu* that it was a "mistake" by his son to share the fake statement in circulation online.

"The entire issue was about sharing something objectionable online and that section has been quashed by the apex court. So, I appeal and request Azam Khan's aide to be kind to us and withdraw his complaint," he said.

Free speech champion

Mahim Pratap Singh

NEW DELHI: Shreya Singhal, who likes listening to alternative music by the likes of Chet Faker and Banks, has just finished reading Donna Tarr's *The Secret History* and describes herself as a "mild tabloid addict." Sounds like any other 20-something? Not quite.

About two years ago, she filed a writ petition in the Supreme Court challenging the validity of Section 66A.

On Tuesday, Ms. Singhal, along with the Supreme Court, emerged as a free speech game changer in the eyes of scores of freedom of speech campaigners, online activists, bloggers and social media users.

"That time, within a span of two months, four people were arrested under the Act, including a businessman in Puducherry, two girls in Maharashtra, a cartoonist ... one of the arrests was for liking a comment on Facebook. I was shocked ... why were people being arrested for posting stuff online ... that is when I decided to file this petition," she told *The Hindu*.

Ms. Singhal,

who is studying Law at Delhi University, comes from a family of lawyers. Her mother, Manali Singhal, practises in the Supreme Court. Her grandmother Sunanda Bhandare was a Delhi High Court judge.

Prime motivation

On Tuesday, when the Supreme Court struck down Section 66(A) as unconstitutional, Ms. Singhal felt vindicated. The prime motivation for filing the petition, she says, was the pervasiveness of the section. "I felt it could happen to me, my friends ... to you ... because anything can end up annoying, provoking anyone ... we are such a society. What bothered me was that you could say the same things on TV news debates or in print and nothing would happen ... but if someone said something online or even shared something that could end up provoking another person, they were liable to be prosecuted," she says.

She says successive governments have tried to control expression on the Internet because the medium connects a large universe with a wide variety of views.



What the experts said on live chat

Special Correspondent

CHENNAI: Three eminent panellists shared their views and answered questions from readers on the Supreme Court verdict striking down Section 66 A of the IT Act that allowed the arrest of people posting "offensive content" on the Internet, in a live chat hosted by *The Hindu*.

Does this now mean anything goes on the Internet,

asked one reader.

"No, the standard penal laws — against defamation, hate speech (S. 153A), religious incitement (S. 295A) — continue to apply," said Gautam Bhatia, a practising lawyer and author of forthcoming book "Offend, shock or disturb: Free Speech under the Constitution." The argument that the Internet needed separate rules when it came to the content of speech was what was reject-

ed by the Court, he said.

To a question on why the court upheld Section 69 A, allowing the blocking of websites, Lawrence Liang, lawyer and researcher at Alternative Law Forum working on free speech, said: "One wishes that the court had paid as much attention to the blocking orders as they did to 66A."

(For the full transcript of the chat visit: thne.ws/1GcezGx)

Victory for team of young lawyers, activists

Rukmini S.

NEW DELHI: Tuesday's verdict is a victory for a loose coalition of young lawyers, Internet activists and researchers who filed separate petitions but helped one another with backroom work and creating public opinion over the past two years.

Among the young lawyers who argued the case is Mishi Choudhary, a technology lawyer and founding director of the non-profit Software Legal Centre. Ms. Choudhary was the lawyer for mouthshut-

"This ruling will define future interactions between users on the Internet"

.com, a reviews-based website which would frequently get requests to take down negative reviews against service providers.

Arguing for the People's Union for Civil Liberties with lawyer Sanjay Parikh were Apar Gupta (30) and Karuna Nundy (38).

"In this case the Supreme

Court has had substantial occasion to comment on penal provisions and censorship online. As such, this ruling is foundational and will define future interactions between users on the Internet in India," Mr. Gupta said.

"[The judgment] makes it very clear that the judiciary will not tolerate the restriction of speech through any vague, overbroad law that is inconsistent with the Constitution," Chinmayi Arun, Research Director of the Centre for Communication Governance at NLU, Delhi, explained.

India, China agree to maintain peace, tranquillity in border areas

Dinakar Peri

NEW DELHI: India and China held the 18th round of talks between the Special Representatives on the Boundary Question in which both sides agreed to take "necessary steps to maintain peace & tranquillity in border areas."

In an effort towards demarcating the contentious boundary, both sides also reinforced

their commitment to the "three-step process to seek a fair, reasonable and mutually acceptable resolution" within the agreed guiding principles.

At the meeting on Monday, India was represented by Ajit Doval, National Security Adviser, and the Chinese representative was Yang Jiechi, State Councillor. This is the first meeting of the special representatives after the Mo-

di government assumed office.

"The Special Representatives continued the discussions to reach a mutually acceptable framework for resolution of the Boundary Question on the basis of the Agreement on the Political Parameters and Guiding Principles," a statement from the Ministry of External Affairs said.

Modi to attend Lee's funeral

Suhasini Haidar

NEW DELHI: Prime Minister Narendra Modi will attend the funeral of Singapore's first Prime Minister Lee Kuan Yew on Sunday. An MEA statement said the PM would officiate at the state funeral "on behalf of the people and Government of India."

Mr. Lee died on Monday at the age of 91, after being hospitalised with pneumonia.

It will be handy in crisis

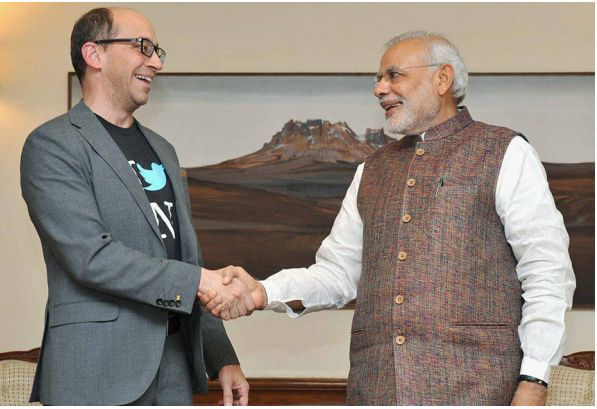
Yuthika Bhargava

NEW DELHI: Twitter Samvad can come in handy during emergencies as government agencies can share live updates, even time-sensitive information on law and order or rescue. The service is based on a platform provided by ZipDial, an Indian company recently acquired by Twitter, making this its first Indian service launched using indigenous technology.

An official statement said

that during the meeting with Dick Costolo, chief executive officer of Twitter, Prime Minister Narendra Modi spoke about avenues through which Twitter could help in initiatives such as the Swachh Bharat Abhiyaan and the Beti Bachao, Beti Padhao scheme, not just by providing a platform but also by initiating a prolonged effort to support these initiatives.

Mr. Modi urged Twitter to help promote India's rich tourist potential.



Prime Minister Narendra Modi with Twitter CEO Dick Costolo in New Delhi on Tuesday. — PHOTO: PTI