

Wikimedia Foundation Inc vs Ani Media Private Limited & Ors. on 8 April, 2025

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 8

+ FAO(OS) 41/2025

WIKIMEDIA FOUNDATION INC

.....Appellant

Through: Mr. Akhil Sibal, Sr. Adv. with Ms.
Tine Abraham, Mr. Vijayendra Prat
Singh, Ms. Shivani Rawat, Mr.
Thomas J. Vallianeth, Mr. Abhijnan
Jha, Ms. Shubhangni Jain, Mr.
Bakhshind Singh, Mr. Pranav Tomar,
Mr. Krishnesh Bapat, Advocates.

versus

ANI MEDIA PRIVATE LIMITED & ORS.

.....Respondents

Through: Mr. Sidhant Kumar, Mr. Akshit
Mago, Mr. Om Batra and Ms.
Anshika Saxena, Advocates.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode. CM APPLs. 20471-73/2025 (for exemptions)
2. Allowed, subject to all just exceptions. Applications are disposed of. CM APPL. 20470/2025 & FAO(OS) 41/2025 Background:
3. The present appeal has been filed on behalf of the Appellant- Wikimedia Foundation Inc. inter alia, challenging the impugned order dated 2nd April, 2025 in CS (OS) 524/2024 titled, ANI Media Pvt. Ltd. v. Wikimedia Foundation Inc. & Ors., by which the Id. Single Judge has disposed of the injunction application filed by the Asian News International Media Pvt. Ltd. (hereinafter, 'ANI') seeking interim injunction, in the following terms:

"24. According to the aforementioned decision of this Court, 'Single Publication Rule' only applies when the second publication is a verbatim reproduction of the first publication. After perusing the Articles which were being cited by Defendants No. 2 to 4 while making the impugned statements, this Court opines that the impugned statements on the Plaintiff's page are not verbatim reproduction of such articles, and

these impugned statements are written in such a way which is totally contradictory to the intent with which these Articles were written and the impugned statements on the page pertaining to the Plaintiff on the Platform of Defendant No. 1 are devoid of the context of the Articles. Therefore, in the opinion of this Court, the impugned statements are ex-facie defamatory and tarnishes the professional reputation of the Plaintiff.

25. In view of the fact that Defendant No.2 to 4 have chosen not to appear despite service and this Court having perused the articles which are the source of this opinion, this Court finds that the opinion of Defendants No.2 to 4 do not represent the true picture of the articles and have been twisted by Defendants No.2 to 4. Further, this Court finds merit in the allegation of the Plaintiff that Defendant No.1 has ensured that the articles cannot be edited by anybody else, thereby putting Plaintiff in a disadvantage to rebut what is given in the page. Therefore, the present application is allowed in terms of prayer (b) and (c) of the application.

26. The application is disposed of."

4. A brief background of the present case is that the ANI, a news agency operating in India, filed a suit being CS (OS) 524/2024 before this Court alleging that the English Wikipedia (hereinafter, 'Wikipedia') page relating to ANI consists of several defamatory statements which are also factually incorrect. The plaintiff gave reference to the various statements published by Wikipedia which were objected to by ANI and alleged that the Wikipedia page has deliberately published false, misleading and defamatory content pertaining to the said news agency. It was also pleaded in the plaint that the Appellant herein has the power to select and modify the information on its website, Wikipedia and has therefore actively published defamatory statements pertaining to ANI on its website.

5. The Plaintiff, ANI in its plaint has further alleged that Wikimedia Foundation Inc. is a significant social media intermediary in terms of Section 2(1)(w) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (hereinafter, the 'IT Rules, 2021'). Further, it deliberately edited its website to include false, misleading and defamatory content against the ANI to tarnish its reputation. Thus, the ANI vide suit being, CS (OS) 524/2024 inter alia sought a decree of permanent and mandatory injunction against the Appellant herein, in respect of publication of any content on its platform which is defamatory. The prayer in the plaint is as under:

"Prayer "In light of the above facts and circumstances, it is humbly prayed that this Hon'ble Court may be pleased to:

a. Pass a Decree of Permanent and Mandatory Injunction against the Defendants, restraining them from posting, publishing, uploading, writing, speaking, distributing and/ or republishing any false, misleading and defamatory content against the Plaintiff on any platform, including the Platform maintained by Defendant No. 1;

b. Pass a Decree of Permanent and Mandatory Injunction against the Defendant No. 1 or its agents or any person acting on its behalf of or under its authority, directing it to remove all false, misleading and defamatory content against the Plaintiff available on its Platform which can tarnish the reputation of the Plaintiff and further restrain its users and administrators from publishing anything defamatory against the Plaintiff on its Platform;

c. Pass a Decree of Permanent and Mandatory Injunction against the Defendant No. 1 or its agents or any person acting on its behalf of or under its authority, directing it to reinstate the ANI Page as it was available as on 26 February 2019, which can be accessed at [https://en.wikipedia.org/w/index.php?title=Asian News International&oldid= 885186405](https://en.wikipedia.org/w/index.php?title=Asian_News_International&oldid=885186405);

d. Direct Defendant No.1, or its agents or any person acting on its behalf of or under its authority, to comply with its obligations under the Intermediary Guidelines and restrain any user or administrator from publishing false, misleading and defamatory content against the Plaintiff on the ANI Page or the Platform;

e. Pass an order directing the Defendants to issue a retraction and an apology to the Plaintiff for damaging the reputation of the Plaintiff;

f. Pass a Decree for damages against the Defendants, directing them to pay an amount of INR 2,00,10,000/- (Rupees Two Crores and Ten Thousand Only) to the Plaintiff, however, the Plaintiff reserves its right to enhance this amount in future; g. Cost of this Suit and consequent litigation be awarded to the Plaintiff; and h. Any other relief which this Hon'ble Court deems fit and proper, against the Defendants and in favour of the Plaintiff."

6. Along with the plaint, the Plaintiff, ANI had also filed an application being, I.A. 32611/2024 in CS (OS) 524/2024 inter alia seeking an injunction against the Appellant herein, in respect of publication of any content on its platform which is defamatory. The said application has been decided by the impugned order. The relief sought in the injunction application is as under:

" In view of the above, it is prayed that this Hon'ble Court may be pleased to:

a. Pass an order against the Defendants, restraining them from posting, publishing, uploading, writing, speaking, distributing and/ or republishing any false, misleading and defamatory content against the Plaintiff on any platform, including the Platform maintained by Defendant No. 1;

b. Pass an injunction against the Defendant No. 1 or its agents or any person acting on its behalf of or under its authority, directing it to remove all false, misleading and defamatory content against the Plaintiff available on its Platform which can tarnish the reputation of the Plaintiff and further restrain its users and administrators from

publishing anything defamatory against the Plaintiff on its Platform;

c. Pass an order directing the Defendant No. 1, or its agents or any person acting on its behalf of or under its authority, to remove the protection status imposed on the ANI Page; d. Pass an order, directing the Defendant No. 1 to disclose the identity of the Defendant Nos. 2 to 4, by providing their name, contact and other relevant details; and e. Pass any such other and further orders as this Hon'ble Court deems fit."

Proceedings in the suit:

7. Summons were issued in CS(OS) 524/2024 on 9th July, 2024 and notice was issued in the interim injunction application.

8. An application being I.A. 36728/2024 in the said suit was moved seeking amendment of the plaint. The ld. Single judge, on 20th August, 2024, allowed the prayer for amendment and in the interim injunction application - I.A. 32611/2024 passed directions to disclose the following information:

"CS(OS) 524/2024 & I.A. 32611/2024

10. The learned counsel for the plaintiff submits that defendant nos.2 to 4 are claimed to be the 'Administrators' of defendant no.1.

11. Learned senior counsel for defendant no.1 submits that they have no connection with defendant nos.2 to 4.

12.Keeping in view the above submissions, defendant no.1 is directed to disclose the subscriber details of defendant nos.2 to 4 to the plaintiff, through its counsel, within a period of two weeks from today. On receipt of the said information, the plaintiff shall take steps for ensuring service of summons and notice on the application on the said defendants."

9. The above direction was challenged by the Appellant herein before the ld. Division Bench vide FAO(OS) 146/2024 (hereinafter, 'previous appeal'). The Appellant was aggrieved by the direction to disclose subscriber details. In the said appeal, on 11th November, 2024 parties agreed to certain terms which were recorded by the ld. Division Bench in the following terms:

"5. Accordingly, the present appeal is disposed of with consent of parties in the following terms:-

"A. This Appeal has been filed challenging the order dated 20 August 2024 by which the Ld. Single Judge has directed disclosure of subscriber details of Respondent Nos. 2-4. Respondent Nos. 2- 4 are arrayed as defendants in the Suit pending before the

Ld. Single Judge.

B. The appeal is disposed of on the basis of the following consent terms, as agreed between the parties, without prejudice to their rights and contentions:

(a) Respondent No. 1 shall promptly ensure that fresh summons be issued to Respondent Nos. 2-4 in the Suit bearing number CS. (O.S.) 524 of 2024 and made available to the Appellant for dasti service upon Respondent Nos. 2-4. The Appellant shall serve Respondent Nos. 2-4 with the summons along with a copy of this order in fulfillment of all applicable legal requirements for service of summons by email, within 4 days of the summons being made available.

(b) The Appellant shall file an affidavit of service in accordance with Chapter VI, Rule 17 of the Delhi High Court (Original Side) Rules, 2018 in sealed cover disclosing all the basic subscriber details of Respondent No. 2-4 available with it, along with the proof of service of summons by email within 7 days of service of summons and shall simultaneously provide the counsel for Respondent No. 1 with a redacted copy of the affidavit of service, after redacting the basic subscriber details of Respondent Nos. 2-4, as disclosed in the sealed cover.

(c) The fresh summons shall duly state that the Suit along with the Application filed under Order 39, Rules 1 and 2, Code of Civil Procedure, 1908 is next listed on the date fixed by the Ld. Single Judge.

(d) Respondent No. 1 shall withdraw the Application filed under Order 39, Rule 2-A of the Civil Procedure Code, 1908 bearing I.A. No. 38498 of 2024 pending before the Ld. Single Judge once the above directions are complied with in the time period stipulated.

(e) Respondent No. I shall be at liberty to approach the Ld. Single Judge for disclosure of the information and documents filed in sealed cover, if required, which shall be considered in accordance with law. All rights and contentions of the parties in this regard are left open.

C. It is made clear that service of summons in accordance with this order shall constitute sufficient service upon Respondent Nos. 2-4 (impleaded as Defendant Nos. 2 to 4 in CS(OS) No. 524/2024) and the Appellant's compliance is limited to effecting service as provided under this order and will thereby fasten no liability on the Appellant for Respondent Nos. 2-4's actions or inactions.

Notwithstanding the foregoing, Respondent Nos. 2-4 will be at liberty to raise all defences available to them in accordance with the law in CS(OS) No. 524/2024 D. It is made clear that all legal issues raised in this Appeal shall remain open."

10. The bone of contention, was the service of Defendant Nos. 2-4 who were claimed to be the 'Administrators' of the Wikipedia portal. The parties agreed the mode and manner of their service as their contact details were not publicly available and was known only to the Appellant. Thus, the Appellant agreed to serve Defendant Nos. 2-4 through Dasti summons.

11. Thereafter, the Defendant Nos. 2 to 4 who were claimed by the Plaintiff to be the Administrators of the Appellant platform were served in the mode and manner as agreed between the parties.

12. In the meantime, an order was also passed by the Id. Division Bench in the previous appeal on 16th October, 2024. The same was passed in respect of certain content which had appeared on an independent page of Wikipedia in respect of the present litigation. The Id. Division Bench inter alia observed that the same amounts to interference in Court proceedings and passed the following directions:

"Since this Court is of the prima facie view that the aforesaid comments on the impugned order passed by the learned Single Judge and the discussion on the observations made by this Bench amount to interference in Court proceedings and violation of the subjudice principle by a party to the proceeding and borders on contempt, this Court directs Wikimedia Foundation Inc.- the appellant herein to take down/delete the said pages and discussion with regard to the observations made by this Court within thirty six (36) hours. List on 21st October, 2024."

13. The said order dated 16th October, 2024 in the previous appeal was challenged by the Appellant herein by way of a Special Leave Petition ('SLP') to the Supreme Court. On 17th March, 2025 in the Special Leave Petition (Civil) Diary No(s). 2483/2025 notice was issued to the ANI, returnable on 4th April, 2025. On 4th April, 2025 in the petition for Special Leave to Appeal (C) No. 7748/2025 the matter was listed for hearing on 9th April, 2025.

14. Both Mr. Akhil Sibal, Id. Senior Counsel and Mr. Siddhant Kumar, Id. Counsel appearing for the parties submit that neither the order dated 16 th October, 2024 or the SLP which is pending before the Supreme Court would have any bearing on the present appeal.

Submissions:

15. On behalf of the Appellant, Mr. Akhil Sibal has made the following submissions:

i. The Id. Single Judge has grossly erred in granting prayer (b) and

(c) of the injunction application when admittedly the reliefs insisted upon by ANI were only prayers, (a) and (b).

ii. There has been a substantial delay in filing of the suit in as much as the content which is objected to was existing on the Wikipedia platform since 2019 and this by itself would disentitle the Respondents for seeking any relief in the interim injunction application.

iii. The manner in which Wikipedia operates is that there are independent persons/third parties who would have no connection with Wikipedia, editing the content of the Wikipedia page. Insofar as Defendant nos. 2 to 4 are concerned they may or may not even be the authors of the ANI page on Wikipedia. iv. The injunction which has been granted vide the impugned order is extremely broad and open ended as the Appellant is merely an intermediary.

v. Lastly, it is submitted that the defamatory material has not been examined by the Id. Single Judge properly and a broad injunction has been granted which would be much more than the reliefs sought by the Respondents itself.

16. On behalf of the Plaintiff - ANI who is the Respondent No. 1 in this appeal, Mr. Sidhant Kumar Marwah submits as under:

i. The aspect of delay in filing the suit is not borne out, in as much as the page pertaining to ANI on the Wikipedia platform as was available in 2019 is not objected to by the Respondents. In fact this is one of the relief prayed in the plaint itself, where it has sought that the ANI page on the Wikipedia platform as was available on 26th February, 2019 ought to be reinstated. ii. The Appellant has not complied with the order dated 2nd April, 2025 and is thus in violation of the IT Rules, 2021 which require even an intermediary to take down the offending content within 36 hours after receiving the order. iii. The intermediary in terms of the IT Rules, 2021 cannot be allowed to contest the matter on merits.

iv. The Appellant itself has the power to modify the content and thus it cannot claim to be an intermediary in terms of the IT Rules, 2021.

Analysis:

17. Heard the Counsels for the parties. There are various issues raised in this Appeal. The Appellant is praying for stay of the impugned order. The Court is thus considering whether the interim injunction granted by the Id. Single Judge deserves to be stayed or modified, till the final adjudication of this Appeal.

18. This Court is conscious of the fact that a detailed and reasoned judgment has been passed by the Id. Single Judge on 2nd April, 2025 and the appeal is against the said judgment. The Id. Single Judge has examined the content and has opined that the same is defamatory and misleading in nature pertaining to ANI. The Id. Single Judge has also examined the legal position in defamation cases of this nature.

19. The finding of the Id. Single Judge is that there is content on the Wikipedia platform pertaining to ANI, which could be considered defamatory. Further, the sources which are cited on the ANI page of the Appellant platform do not match with the references provided for the same. The content of the Wikipedia page relating to ANI and the sources provided for the same are different. It is under these circumstances that the Id. Single Judge has granted interim injunction vide the impugned

order. Some of the relevant findings from the impugned order are extracted below for ready reference:

"19. In view of the abovementioned judgment, this court must consider the following for the grant of interim injunction in a defamation case - a Prima facie case, balance of convenience, and irreparable loss.

20. Material on record indicates that the Defendants No. 2 to 4 stand served. Despite service, Defendants No. 2 to 4 have chosen not to appear, no pleadings or reply have been filed by Defendants No. 2 to 4. 21. To adjudicate on the issue as to whether the impugned statements are taken from the cited sources on which they have relied upon and whether the impugned statements on the Plaintiff's page are in terms of the publishing policy of the Defendant No. 1's Platform, this Court has gone through the policy of Defendant No.1 and also the sources relied on by Defendants No.2 to

4.....

22. After going through the policy of the Defendant No. 1 regarding neutral point of view which states that any encyclopedic content on Wikipedia must be written from a neutral point of view, without any editorial bias. On perusal of the page pertaining to the Plaintiff, it appears that the statements on the page pertaining to the Plaintiff are all sourced from articles which are nothing but editorials and opinionated pages. Defendant No.1 which is following the policy to avoid stating opinions as facts and also professing it to be an encyclopedia has to also see as to whether the opinions are actually based on the source articles or not so that neutral policy of Defendant No.1 is not violated...."

20. In order to consider the prayer for stay as sought by Wikipedia, the nature of the Appellant's platform is relevant. Wikipedia is nothing but an online encyclopaedia. The same is acknowledged by Wikipedia on its platform¹ in the following terms:

<https://en.wikipedia.org/wiki/Wikipedia> Wikipedia is a free-content online encyclopedia, written and maintained by a community of volunteers, known as Wikipedians, through open collaboration and the wiki software MediaWiki. Founded by Jimmy Wales and Larry Sanger on January 15, 2001, Wikipedia has been hosted since 2003 by the Wikimedia Foundation, an American nonprofit organization funded mainly by donations from readers. Wikipedia is the largest and most-read reference work in history..."

21. The word 'Encyclopaedia' which is derived from the Latin term 'enkuklopaideia' or 'enkuklios paideia' signifies 'all-round education'. Thus, publications like Wikipedia or any other encyclopaedia, ought to take a neutral stance. The same is also acknowledged and reflected on the Wikipedia platform² in the following terms:

"All encyclopedic content on Wikipedia must be written from a neutral point of view (NPOV), which means representing fairly, proportionately, and, as far as possible, without editorial bias, all the significant views that have been published by reliable sources on a topic.

NPOV is a fundamental principle of Wikipedia and of other Wikimedia projects. It is also one of Wikipedia's three core content policies; the other two are "Verifiability" and "No original research". These policies jointly determine the type and quality of material acceptable in Wikipedia articles, and because they work in harmony, they should not be interpreted https://en.wikipedia.org/wiki/Wikipedia:Neutral_point_of_view in isolation from one another. Editors are strongly encouraged to familiarize themselves with all three. This policy is non-negotiable, and the principles upon which it is based cannot be superseded by other policies or guidelines, nor by editor consensus."

22. Today, during the hearing, the Court has perused the live website of Wikipedia's ANI page which shows that there is substantial content therein where allegations and accusations have been raised against the ANI, especially in respect of bias, propaganda, fake news etc. The capturing of such content especially on a platform like Wikipedia could have an impact upon readers and users of Wikipedia. It is the contention of Wikipedia that the content is based on known sources. The question whether all of this content is fair, proportionate and based on actual sources, deserves a closer scrutiny. The ld. Single Judge has examined the same and has concluded, prima facie, that the content is misleading and defamatory. The said finding of the ld. Single Judge is set out below:

"24.After perusing the Articles which were being cited by Defendants No. 2 to 4 while making the impugned statements, this Court opines that the impugned statements on the Plaintiff's page are not verbatim reproduction of such articles, and these impugned statements are written in such a way which is totally contradictory to the intent with which these Articles were written and the impugned statements on the page pertaining to the Plaintiff on the Platform of Defendant No. 1 are devoid of the context of the Articles. Therefore, in the opinion of this Court, the impugned statements are ex-facie defamatory and tarnishes the professional reputation of the Plaintiff....."

23. The written statement in the suit being, CS (OS) 524/2024 has been filed but the Court is informed that the same has not been taken on record as there has been delay in the filing of the written statement by the Appellant and the application for condonation of delay is yet to be considered.

24. The copy of the written statement has however been placed on record which shows that the clear stand of the Appellant is that it is an 'Intermediary'. The relevant para of the written statement are set out below:

"11. In this regard, Defendant No. 1 is an intermediary that merely provides the technical infrastructure that hosts the Platform and does not (a) publish and/or edit the content on the Platform published by the users, (b) decide which users are vested with certain technical privileges, or (c) continually judge and censor the content posted on the Platform. Content on the English Wikipedia/Platform is published, edited and constantly improved by independent third-party volunteers (Wikipedia Community) who have no direct connection with Defendant No. 1.

12. Defendant Nos. 2-4 are such independent third-party volunteers who have allegedly posted defamatory content on the Platform's ANI Page. They are alleged to be Administrators (defined hereinunder in paragraph 66) of the English Wikipedia. However, per Defendant No. 1's knowledge, while Defendant Nos. 2-3 are registered users who are Administrators of the Platform, Defendant No. 4 is a registered user of the Platform but not an Administrator."

25. From a perusal of paragraphs 11 and 12 of the written statement, it becomes clear that the Appellant's stand is that it is an intermediary. Further, it is also stated that the other Defendants in the suit i.e. Respondent Nos. 2, 3 and 4 herein are independent third party volunteers who have contributed on the ANI page of Wikipedia. The Appellant clearly states that it merely provides the technical infrastructure for the Wikipedia platform and does not in any manner publish or edit on the platform. As per the above extracted paras of the written statement, Wikipedia also does not decide which users are given technical privileges and it also does not judge or censor the content. Under such circumstances, the question would be as to who are the authors and who claims responsibility for the content. Clearly the Appellant is neither willing to claim authorship nor is willing to disclose the identity of the author/s.

26. Since Wikipedia itself claims to be an intermediary, a fact also admitted by Id. Senior counsel for the Appellant, it is entitled to 'Safe Harbour' under Section 79 of the IT Act only if it observes 'due diligence' in terms of the IT Rules, 20213. The said Rules stipulate that an intermediary is obligated to make reasonable efforts to avoid publishing any objectionable content. The relevant extract of Section 79 of the IT Act is set out below for ready reference:

"79. Exemption from liability of intermediary in certain cases.--(1) Notwithstanding anything contained in any law for the time being in force but subject to the provisions of sub-sections (2) and (3), an intermediary shall not be liable for any third party information, data, or communication link made available or hosted by him.

(2) The provisions of sub-section (1) shall apply if--

(a) the function of the intermediary is limited to providing access to a communication system over which information made available by third parties is transmitted or temporarily stored or hosted; or

(b) the intermediary does not--

- (i) initiate the transmission,
- (ii) select the receiver of the transmission, and
- (iii) select or modify the information contained in the transmission;

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

(c) the intermediary observes due diligence while discharging his duties under this Act and also observes such other guidelines as the Central Government may prescribe in this behalf."

27. The IT Rules, 2021, Part II -- titled 'Due diligence by intermediaries and grievance redressal mechanism' stipulate the obligations of intermediaries. The said provision is extracted for ready reference:

"3. (1) Due diligence by an intermediary: An intermediary, including 1 [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:--

(a) the intermediary shall prominently publish on its website, mobile based application or both, as the case may be, the rules and regulations, privacy policy and user agreement in English or any language specified in the Eighth Schedule to the Constitution for access or usage of its computer resource by any person in the language of his choice and ensure compliance of the same;

(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]⁴, 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, or an online game that causes user harm,] or promoting enmity between different Subs. By G.S.R. 275€⁵, dated 6th April 2023, for "to cause the user of its computer resource not to host"

w.e.f. 6-4-2023 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 3 [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 cognisable 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;

(c) an intermediary shall periodically inform its users, at least once every year, that in case of non-compliance with rules and regulations, privacy policy or user agreement for access or usage of the computer resource of such intermediary, it has the right to terminate the access or usage rights of the users to the computer resource immediately or remove non-compliant information or both, as the case may be;

(d) an intermediary, on whose computer resource the information is stored, hosted or published, upon receiving actual knowledge in the form of an order by a court of competent jurisdiction or on being notified by the Appropriate Government or its agency under clause (b) of sub-section (3) of section 79 of the Act, shall not host, store or publish any unlawful information, which is prohibited under any law for the time being in force in relation to the interest of the sovereignty and integrity of India; security of the State; friendly relations with foreign States; public order; decency or morality; in relation to contempt of court; defamation; incitement to an offence relating to the above, or any information which is prohibited under any law for the time being in force:

Provided that any notification made by the Appropriate Government or its agency in relation to any information which is prohibited under any law for the time being in force shall be issued by an authorised agency, as may be notified by the Appropriate

Government:

Provided further that if any such information is hosted, stored or published, the intermediary shall remove or disable access to that information, as early as possible, but in no case later than thirty-six hours from the receipt of the court order or on being notified by the Appropriate Government or its agency, as the case may be:

Provided also that the removal or disabling of access to any information, data or communication link within the categories of information specified under this clause, under clause (b) on a voluntary basis, or on the basis of grievances received under sub-rule (2) by such intermediary, shall not amount to a violation of the conditions of clauses (a) or (b) of sub-section (2) of section 79 of the Act;"

28. A perusal of the above Rule clearly shows that if there is any content on the Wikipedia website which a person whose information it professes to publish feels that it is either false, untrue or misleading in nature, such person can approach the Court praying for an order directing taking down of the content. If a Court is satisfied and passes an order in favour of such person, upon receipt of the Court order, in terms of the second proviso of Rule 3(1)(d) of the IT Rules, 2021, the intermediary is obliged to take down the said content within 36 hours.

29. The Id. Single Judge in this matter has heard the parties and has given a prima facie opinion, vide the impugned order, that the content on the Appellants platform pertaining to ANI is defamatory. Thus, the content ought to be taken down by Wikipedia within 36 hours. An intermediary is an entity which cannot challenge the order on merits, as it enjoys 'Safe harbour' protection under the Act. In the context of defamation cases, an intermediary cannot therefore set up the usual defences of justification or truth in respect of a publication, as it does not claim authorship or responsibility in respect of the content itself.

30. During the pendency of the suit itself, it is seen that the content on the Wikipedia page is not static. The nature of the platform itself is such that the content is continuously dynamic so there is a possibility that the content could be changing on a daily basis. Id. Counsel for ANI relies upon the decision in *Swami Ramdev and Another v. Facebook, Inc. and Others* (2019 SCC OnLine Del 10701) to argue that whenever any further defamatory content comes to the knowledge of ANI, it would write an email to Wikipedia seeking take down of the said defamatory content. According to Id. Counsel the injunction ought to therefore operate in a manner that the Appellant platform ought to take down content, violative of the injunction order on an ongoing basis.

31. A perusal of the content, during the course of hearing, on the ANI page of Wikipedia shows that there are various portions of the content which make allegations, allusions and accusations of ANI being a 'propaganda tool' and a 'vast network of fake news websites'. There is an entire section on 'Bias and propoganda' and allegations of misreporting by ANI have been made. Such allegations can have far-reaching and adverse impact on any news agency. The page appears to be spreading a one-sided view without maintaining Neutrality - as any Encyclopaedia should. While an actual author or publisher who takes responsibility can seek to justify or raise a defense of truth, an

intermediary who does not take responsibility is not afforded this status. Any person against whom such allegations are made cannot also be left remediless i.e., the actual author is unknown and the publisher claims to be an intermediary. Prima facie, this appears to be a situation where parties like the Plaintiff-ANI may be left with no remedy if this position is accepted. Such a state of affairs where a party does not know how to save its reputation, in the light of such sweeping allegations, would also create difficulties in availing of remedies. Everyday's continuation of the said content would cause irreparable harm and injury to the Plaintiff-ANI. The Supreme Court⁵ observes in the context of safeguarding reputation of an individual that "Not all the King's horses and all the King's men can ever salvage the situation completely". This observation would squarely apply even in the case of an organisation. Thus, the balance of convenience is clearly in favour of the Plaintiff-ANI.

32. The Respondent Nos. 2 to 4 who are the 'Administrators' have been served but they have not appeared. In fact the real name of one of the Defendant is not known to anyone till date, except Wikipedia. Till date Institute of Chartered Accountants of India vs. L.K. Ratna & Ors (1986) 4 SCC 537 para 18 neither the Appellant has disclosed who has put up this content nor Respondent Nos. 2 to 4 have come forward to claim authorship of the content. During the course of hearing, upon being queried, the Court is informed by Mr. Akhil Sibal that the said person does not want his identity to be disclosed. Such is the level of secrecy and disguise that the authors or Administrators wish to maintain.

33. The whole process of content uploading and authorship being shrouded in secrecy and no responsibility being taken by any individual or entity, since neither the actual authors have come forward, the platform itself being only an intermediary, this Court is of the opinion that until the appeal can be finally heard, in order to balance the interest of both sides, the interim injunction granted by the Ld. Single Judge following directions deserves to be modified in the following terms:

i. The interim injunction shall be restricted to the first part of prayer 'b' (underlined portion) in the injunction application which reads as under:

"b. Pass an injunction against the Defendant No. 1 or its agents or any person acting on its behalf of or under its authority, directing it to remove all false, misleading and defamatory content against the Plaintiff available on its Platform. which can tarnish the reputation of the Plaintiff and further restrain its users and administrators from publishing anything defamatory against the Plaintiff on its Platform;"

Wikipedia is directed to implement the direction given above and remove the defamatory content from the ANI page of Wikipedia within 36 hours.

ii. The remaining injunction in terms of the latter part of prayer 'b' and prayer 'c' shall remain stayed.

iii. Whenever any further defamatory content comes to the knowledge of ANI, it is free to write an email to Wikipedia through counsels seeking take down of the said content. Upon receiving such email, the Appellant would be liable to follow the IT Rules 2021, and take down such content within

36 hours. If the same is not done, then ANI is free to approach this Court by way of an application.

34. CM APPL. 20470/2025 seeking stay of the impugned order is disposed of in the above terms.

35. The electronic record of the Suit is already tagged with this appeal. Ld. Counsels may obtain the electronic record. If the parties wish to file their written submissions and rely upon any judgments, they may do so at least five days before the next date of hearing.

36. List the main appeal for hearing on 16th July, 2025. Copy of this order be given dasti under signatures of the Court Master.

PRATHIBA M. SINGH JUDGE RAJNEESH KUMAR GUPTA JUDGE APRIL 8, 2025 v/da/rks