

GOVERNMENT OF INDIA
MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY
LOK SABHA
UNSTARRED Diary No. 4613
TO BE ANSWERED ON: 24-03-2021

USE OF DATA BY THIRD PARTY APPS WITHOUT CONSENT

4613. SHRI T.N. PRATHAPAN:
SHRI A. NARAYANA SWAMY:
SHRIMATI APARUPA PODDAR:

Will the Minister of Electronics and Information Technology be pleased to state:

- (a) whether the Government is aware of the fact that certain third party apps permitted by common apps take and use data provided by the users without direct consent;
- (b) if so, the details thereof and the reaction of the Government thereto along with the steps taken by the Government in this regard;
- (c) whether the Government is aware that e-commerce websites use certain undisclosed, unidentifiable 'cookies' that breaches the data privacy of users and if so, the details thereof and the reaction of the Government thereto ; and
- (d) the steps taken by the Government in this regard to ensure the protection of Right to Privacy under Article 21 of the constitution?

ANSWER

MINISTER OF STATE FOR ELECTRONICS AND INFORMATION TECHNOLOGY
(SHRI SANJAY DHOTRE)

(a) to (d): Cyber Space is a complex environment of people, software, hardware and services on Internet. With a borderless cyberspace coupled with the possibility of instant communication and anonymity, while collecting user data without taking direct consent on App or Websites using cookies or otherwise, the potential for misuse of cyberspace for illegal activities is immense. Any App/website created from anywhere in the world and made available through Internet/AppStore can be accessed anywhere. Many of such Apps/websites tend to collect personal data. With such collection and processing of data there is always a danger regarding possible misuse and privacy risk for users.

The Apps/websites are either body corporate or Intermediaries as defined in the IT Act, 2000. Section 43A of the Information Technology Act, 2000, applies to the Apps/Websites and provides for compensation to be paid to the victim in case of unauthorized access of information and leakage of sensitive personal information respectively. It mandates 'body corporate' to implement 'reasonable security practices' for protecting 'sensitive personal information' of individuals. The Information Technology (Reasonable security practices and procedures and sensitive personal data or information) Rules, 2011 notified under this section defines sensitive personal information and also mandate that body corporate must provide policy for privacy and disclosure of information, so that user is well aware of the type of personal data collected, purpose of collection and usage of such information. The rules also specify mode of collection of information, disclosure of information, transfer of information, etc.

The App/website, as an intermediary, are required to follow certain due diligence as specified in the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 notified under the IT Act. This includes publishing of user agreements, terms and conditions and privacy policy of their platform.

Informational privacy is a fundamental right and Government respects this. The Personal Data Protection Bill, 2019 is with the Joint Committee of Parliament.
