

as the High Court may from time to time; issue in this behalf, the general control over all the Courts under this Act in a district shall be vested in the District Judge”.

The section itself is crystal clear and it gives overall administrative control, to the District Judge in the day to administration of the inferior Courts in his control in the district and such a power can never be equated with a statutory right to direct a Senior Civil Judge to assume charge of another Senior Civil Judge or to direct Junior Civil Judge in the district to assume the office of any other Junior Civil Judge in the district. If that were to be the intention of the Legislature, the said Section 23 of A.P. Civil Courts Act, 1972 would have been drafted otherwise, declaring that the District Judge can direct a Senior Civil Judge in the district to assume office of another Senior Civil Judge, which became vacant for some reason or other and likewise, direct a Junior Civil Judge of the district to assume charge of another Junior Civil Judge in the district, until the said Court is filled up by a person duly appointed to that office.” On the other hand, the section starts with a subjective clause,

which says that the District Judge has general control over all Courts in the district, subject to other provisions of the Act and orders of High Court. Anyway, it is not an unarguable point. So, at least, it will be better to add an explanation to Section 23 of the Act as follows, in which case there is no necessity to add Section 28-A and Section 28-B as suggested by me.

Explanation to Section 23: The General Control means and includes the right of the District Judge to direct a Senior Civil Judge of the district to assume charge of another Senior Civil Judge in the district, if the Court of such latter Judge falls vacant due to his death or of his being incapacitated by illness or otherwise for performance of his duties till such time as it is resumed or assumed by a person duly appointed to that office and also to direct a Junior Civil Judge in the district to assume the office of another Junior Civil Judge if the Court of such latter Judge falls vacant due to his death or his being incapacitated by illness or otherwise for performance of his duties, till such time as it is resumed or assumed by a person duly appointed to that office.

FREEDOM OF PRESS IN INDIA AFTER INDEPENDENCE

By

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Introduction

The basic idea of freedom of speech and expression is as old as the human civilization. In India, before independence there was no constitutional or statutory guarantee of individual and/or media freedom. At the most some English common law freedom could be claimed by the press, as was observed by the Privy Council – the apex Court for India then – in the following words.

The freedom of the journalist is an ordinary part of the freedom of the subject and to whatever length the subject may go, so also may the journalist, but a part from Statute law, his privilege is no other and no higher. The range of his assertions, his criticisms or his comments is as wide as, and no wider than, that of any other subject.

It is no gainsaying the fact that the rigours of the Indian Press Act of 1910, directed against offences involving violence as well as

sedition, were enhanced by the Criminal Law Amendment Act, 1913 and by the Defence of India Regulations (DIR) which were promulgated on the outbreak of the First World War in 1914. But the launching of the civil disobedience movement, in 1931, for the attainment of Swaraj, prompted the British Government to promulgate an Ordinance to control the press which was later incorporated in the Press (Emergency) Powers Act of 1931; while it was originally enacted as temporary one, it was later made permanent Act in 1935. Historically, the agitation for freedom of the press was started by way of protest against such special laws like the Press (Emergency) Powers Act of 1931.

I Press Freedom Includes Right to Know

Since the press is one of the media or a means of communication through which the people may get their information in the form of news that comes from far and wide all directions north, west and south. The press freedom being coextensive with an individual's right to know, the press also is equally entitled to have the right to know and be informed of the administration of public affairs, so that it a pass on that information to the people at large, which is indispensable for the proper functioning of a democratic system of Government in particular. The more the system of governance is transparent the more it may be reliable and stable one. And, as a matter of fact, the faster we are able to communicate, the quicker would be our socio – economic progress, provided the press plays its role as a watchdog or 'people' ombudsman so as to ensure accountability of all concerned.

II. Justifiability of Reasonable Restriction

While the freedom of speech and expression including that of the press never remained absolute, the nature and scope of the restrictions thereon initially envisaged by the India Constitution under Article 19(2)

was considerably liberal and limited to a certain extent. In order, therefore, to widen the scope of restrictions and to empower the state to have its extensive control over the freedom of press the Article 19(2) was amended twice in 1951 and 1963 especially with a view to nullify the liberally expounded view of the press freedom by the Supreme Court in its successive judgments, namely *e.g.*, in *Cross Road Newspaper*, *Organiser Weekly* and *Bharati Press Cases*.

As amended up-to-date, the Indian Constitution in its Article 19(2) envisages now to strike a balance between the individual liberty and the State control. Hence the State is empowered, accordingly to impose certain 'reasonable restriction' on freedom of speech or press on any or many of the following grounds in the interest of—

- (i) the sovereignty and integrity of India.
- (ii) the security of the State.
- (iii) friendly relations with foreign States
- (iv) public order
- (v) decency or morality; or
- (vi) in relation to contempt of Court
- (vii) defamation; or
- (viii) incitement to an offence

Anticipator/Preventive Restrictions

Essentially preventive by their nature, the anticipatory or prior restraints over press freedom may be in any of the following forms like :

1. Licensing;
2. Censorship;
3. Prohibition of prejudicial publication;
4. Blacklisting of commercial forms;
5. Security for good behaviour from persons disseminating offending publications;

6. Prohibition of entry into specified area;
7. Registration and allied formalities;
8. Demand and forfeiture of security;
9. Control or regulation over the volume of circulation, advertisement and/or supply of the paper.

Post – Publication Penal Restraints

There are various legal provisions which define offences and provide for punishment of a person who commits such an offence by printing, publishing and/or circulation of an objectionable matter prohibited by law as to :

1. Sedition;
2. Promoting class hatred;
3. Obscenity;
4. Injury to religious feeling;
5. Defamation;
6. Public mischief;
7. Contempt of Court;

Conclusion

In view of the circumstances, we submit, the concept of “freedom of the press”, in modern times must be adjusted with the constitutionally warranted ‘reasonable restrictions’ which may be imposed in view

of exigency of the times to countervailing ‘public interest’.

In our opinion, it is the duty of the Press Council to ensure that media reports satisfy the requisite test and standards of true journalism, and the exercise of press freedom is not motivated to subserve any narrow interest other than public interest.

Stressing the issue of responsibility of media and press, Justice *Verma*, former Chief Justice of India, rightly holds that the object promote public interest, any information which is not in public interest and is distasteful must be strictly avoided. The need of objectivity, sobriety and restraint is great. The fundamental duties in Articles 19(2) and (6) of the Constitution must always be kept in view as indication to the media/press as to the extent of their duty or responsibility and the kind of self-restraint needed in the exercise of press freedom. As such the seven basic principles of public life, namely, selflessness, integrity, objectivity, accountability, openness, honesty and leadership need to be observed by the press in constructive role so as to expose antisocial and anti-national forces and to ensure, as ‘peoples’ embudsman accountability of public men everywhere possible in order to strengthen democracy and to crusade for a just social and economic order that promotes human rights and eliminates disparities.

LAW AND COMMON MAN IN INDIA

By

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Introduction

In our democracy set-up, all laws are made for all men, - common or uncommon. By common man, in common parlance, we understand – a man on the street. A man

who may not have any status, office, post or rank in society. He is only a human being an ordinary citizen with expectations of a just and human order. He may be a Tom, Dick or Harry, Ram, Rahim or Shyam. The expression includes a cobbler, sweeper, baker,