



JSA Prism Dispute Resolution



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Takedown or overreach: A legal analysis of X Corp's challenge to government mandated digital censorship

The Hon'ble High Court of Karnataka ("Karnataka HC") in *X Corp. vs. Union of India*¹ raises a regulatory challenge within the domain of intermediary liability and content governance. The writ petition filed before the Karnataka HC raises foundational issues around statutory interpretation, executive accountability, and digital free speech under the Information Technology Act, 2000 ("IT Act").

The case squarely contests the Union Government's alleged misuse of Section 79(3)(b) of the IT Act to compel content removal², a provision originally crafted to define the limits of intermediary protection, not to confer direct takedown authority.

Brief facts

X Corp (formerly Twitter Inc.), registered as a "significant social media intermediary" under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 ("IT Rules"), operates a major platform enabling global communication.

The dispute arises from multiple takedown directions issued by the Union Government through the 'Sahyog' portal, a centralised interface for law enforcement engagement with intermediaries. According to X Corp, these directions were issued under Section 79(3)(b) of the IT Act, which deals with loss of safe harbour if intermediaries fail to act upon unlawful content once notified.

The petition argues that such actions violate the Supreme Court of India ("Supreme Court") ruling in *Shreya Singhal vs. Union of India*³, which held that content removal must comply with Section 69A. The Petitioner also asserts that informal government communications, lacking statutory underpinning, cannot displace due process under Indian law.

¹ W.P. No. 7405 of 2025

² Section 79(3)(b) in The Information Technology Act, 2000

"....(b) upon receiving actual knowledge, or on being notified by the appropriate Government or its agency that any information, data or communication link residing in or connected to a computer resource, controlled by the intermediary is being used to commit the unlawful act, the intermediary fails to expeditiously remove or disable access to that material on that resource without vitiating the evidence in any manner..."

³ (2015) 5 SCC 1

Key issues

1. **Misuse of Section 79(3)(b) of the IT Act:** X Corp asserts that Section 79(3)(b) of the IT Act is being wrongfully invoked as a source of takedown power, bypassing Section 69A of the IT Act. Section 79(3)(b) of the IT Act merely disqualifies intermediaries from safe harbour if they fail to expeditiously remove content *after* receiving 'actual knowledge' through a lawful order. It does not, by itself, confer power on the executive to issue such orders.
2. **Unlawful operationalisation of the 'Sahyog' portal:** The petition challenges the legal sanctity of the 'Sahyog' portal, alleging that it creates an informal enforcement apparatus that bypasses transparency, recordability, and appeal rights. It is argued that such informality is contrary to the rule of law, and inconsistent with Article 14 and Article 19(1)(a) of the Constitution.
3. **Coercive threats and safe harbour protections:** X Corp claims that it has been threatened with withdrawal of safe harbour protections and punitive action unless it complies with requests that lack legal basis. Such coercive tactics, it contends, undermine the principle of non-arbitrariness and chill lawful expression.

Reliefs sought

The petition seeks, among other things:

1. a declaration that content takedown directions can only be lawfully issued under Section 69A of the IT Act;
2. a direction restraining the Respondents from issuing coercive communications under Section 79(3)(b) of the IT Act in substitution for statutory processes; and
3. an order of interim protection against coercive action for non-compliance with requests made *via* the 'Sahyog' portal.

Current status

The Karnataka HC admitted the petition on March 17, 2025, and issued notice to the Union Government. While interim relief was declined, X Corp has been granted liberty to approach the court in case of any future adverse action. The matter is currently listed for final arguments

The Union of India has since filed a counter affidavit contesting maintainability, asserting that 'Sahyog' portal is a coordination tool rather than a censorship mechanism, and that X Corp is evading legitimate regulatory obligations.

Conclusion

This litigation is of considerable consequence for the Indian information technology and digital platform ecosystem, as a ruling in this case could restore the centrality of Section 69A of the IT Act as the exclusive mechanism for content blocking and clarify that Section 79(3)(b) of the IT Act cannot be misused as a parallel route to compel censorship. Further, this litigation challenges the opacity of digital governance via portals like 'Sahyog'. Judicial scrutiny may lead to new norms ensuring traceability, accountability, and post-facto judicial review of executive directives.

In *Wikimedia Foundation Inc. vs. ANI Media Private Limited*⁴, the Hon'ble Supreme Court underscored a critical limitation on takedown of online content. The Supreme Court observed that unless content is *prima facie* contemptuous of court proceedings, it cannot be removed merely because a judge finds it uncomfortable or inaccurate. This observation by the Supreme Court reinforces the core principle that judicial and executive orders affecting online content must be legally tenable, procedurally fair, and constitutionally sound. The reasoning in *Wikimedia Foundation*

⁴ SLP(C) No. 7748/2025

Inc (ibid). powerfully supports X Corp's argument that takedown orders, whether issued by courts or executive authorities, must be rooted in clear statutory procedures and judicially reviewable reasons.

X Corp vs. Union of India may well become a landmark case in India's digital constitutionalism. It confronts critical questions about the outer limits of executive power, the role of procedural safeguards, and the resilience of free expression in the age of algorithmic governance. It also builds upon the spirit of the Shreya Singhal (*ibid*), reiterating that convenience cannot override constitutionalism.

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