

Online curation systems unlike newspapers: Govt on safe harbour call

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The government has stated in its submissions to the Court that a wider net has to be cast under Section 79 to ensure ‘unlawful content’ under any other law is removed, including the constitutionally permissible reasonable restrictions.

Defending its decision to lower the “safe harbour” protections for Internet intermediaries and social media platforms and remove content through the Sahyog Portal, the Centre told the Karnataka High Court Thursday that algorithmic curation systems fundamentally differ from editorial processes in traditional media.

“Unlike a newspaper editor’s conscious judgment or a TV producer’s schedule, these automated decisions occur at massive scale and at lightning speed, often without transparent standards,” the government said in its submissions.

The Karnataka High Court is currently hearing a plea by social media platform X challenging the Centre’s use of Section 79 of the Information Technology Act to pass content blocking orders. The provision removes safe harbour protection for intermediaries if they fail to take down content flagged by the government. These orders are facilitated through the Home Ministry’s Indian Cyber Crime Coordination Centre (I4C)-led Sahyog Portal.

Solicitor General Tushar Mehta, appearing for the Centre, essentially made a “sui generis” case against “algorithmic curation systems” on the Internet which are “fundamentally unlike any editorial process in traditional media”, making a case for the government to flag and remove content from social media platforms with ease.

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“Historically, the flow of information to the public was mediated by institutional gatekeepers – editors, publishers, broadcasters – who exercised at least some judgment over content. It is submitted that while this system was imperfect, it provided a measure of quality control and ensured that extreme or verifiably false content often struggled to find mass outlet,” Mehta’s written submissions to the Court stated.



The government also cited anonymity or pseudonymity in online platforms through alias accounts, encrypted messaging, etc. “which can encourage more extreme speech by shielding

speakers from accountability,” unlike in “the world of licensed newspapers or broadcasters, who were known entities”.

“It is submitted that these algorithms automatically ‘amplify’ certain content: in other words, they boost exposure of posts beyond the reach that basic user-to-user transmission would achieve. This algorithmic curation system has no equivalent in traditional media, thus social media can ‘target’ information toward individual consumers in a way that is not possible for traditional media,” he said.

X has challenged the Sahyog Portal, calling it a “censorship portal.” According to government sources, as of March 2025, 38 IT intermediaries have been onboarded including significant ones like [Google](#), [Microsoft](#), Amazon, Telegram, [Apple](#), Sharechat, Snapchat, [LinkedIn](#), YouTube, and others. Meta Inc, which owns [Facebook](#), Instagram and WhatsApp, has allowed API-based integration with the portal.

The platform has refused to be onboarded on the portal, citing that the government has no power under Section 79 of the IT Act to send notices to online intermediaries to remove, disable access to any information, data or communication link. The power to issue orders to block content is specifically defined under Section 69A of the IT Act. These orders are issued under the Information Technology (Procedure and Safeguards for Blocking Access of Information by Public) Rules, 2009. Under Section 79, notices, and not blocking orders, are issued to intermediaries. In case of non-compliance with the notices, the government lifts the safe harbour protections under law.

However, Section 69A applies to a narrower class of cases – against information that relates to the sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above, as compared to Section 79. The categories of information under Section 69 are those listed under Article 19 (2) of the Constitution that deals with ‘reasonable restrictions’ on the right to freedom of speech and expression.

The government has stated in its submissions to the Court that a wider net has to be cast under Section 79 to ensure ‘unlawful content’ under any other law is removed, including the constitutionally permissible reasonable restrictions.

“It is submitted that the present matter cannot, thus, be examined, analysed or adjudicated only from the perspective of those who exercise their freedom of expression by displaying, uploading, publishing, transmitting, storing or sharing information/content but also from the point of view of and with the intention to protect vital interest of the recipients of such information/content as well as larger interests of the society and the state, since such information/content may have very serious consequence of not only public mischief but creation of law and order/public order situation harming the society at large and danger to national security,” the submissions stated.

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