

Seventeenth Loksabha

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Title: Need to repeal Information Technology (Intermediary Guidelines) Rules and issue new ones to govern Social media platforms.

**SHRI TEJASVI SURYA (BANGALORE SOUTH):** I would like to draw the attention of this House to the recent controversies regarding censure of free speech by social media platforms like Facebook, Twitter, and their affiliates in India. This poses a significant constitutional challenge not only on the grounds of unreasonable restriction of free speech but also amounts to illegal interference during elections.

Sir, Facebook, Twitter and similar foreign social media platforms claim themselves to be intermediaries under the IT Act. However, the key element of this definition is that the role of the intermediaries is limited to processing, storing and transmitting data of third-party users and does not include intervention on the content of the users. Therefore, Section 79 of the IT Act provides these intermediaries exemption from any liability. An intermediary receives protection that a regular publisher does not receive.

While this is the explicit spirit of the statute, the Information Technology (Intermediary Guidelines) Rules, while laying down what sort of third-party content may be prohibited by the privacy policy of the intermediary, go far beyond the scope of Article 19 (2) of the Constitution read with Sections 79 and 69 of the IT Act.

These guidelines are not only ultra vires the parent statute, but also unconstitutional as the grounds they provide for are so wide that they will fail the standards of constitutionality set out by the Supreme Court in Shreya Singhal case while striking down Section 66(A) of the IT Act. They are problematic because they empower private foreign enterprises performing essentially a public function to

act as censors of free speech without Government oversight, thus effectively and severely impacting safeguards of fundamental right to free speech.

I, therefore, urge the Government to repeal such unconstitutional guidelines and issue new ones to govern social media platforms, thereby protecting the fundamental right to free speech of our citizens, especially those of the nationalistic approach. Thank you, Sir.

**माननीय अध्यक्ष :**

कुँवर पुष्पेन्द्र सिंह चन्देल,

श्री प्रवेश साहिब सिंह वर्मा,

डॉ. निशिकांत दुबे, एवं

श्री एस.सी. उदासी को द्वारा श्री तेजस्वी सूर्या उठाए गए विषय के साथ संबद्ध करने की अनुमति प्रदान की जाती है ।