

GOVERNMENT OF INDIA
MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY
LOK SABHA
UNSTARRED QUESTION No. 2801
TO BE ANSWERED ON 20.12.2023

OBSCENITY ON SOCIAL MEDIA

2801. SHRI D.M. KATHIR ANAND:

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

- (a) whether the Government has taken any steps to stop the prevalence and excess use of obscenity and vulgarity on social media networks and punish the perpetrators;
- (b) if so, the details thereof and if not, the reasons therefor;
- (c) the stringent steps taken by the Government to curb and stop the prevalence of obscenity and vulgarity in the name of web series on social media networks; and
- (d) whether the Government has any plans to bring amendments to the original Act and if so, the details thereof?

ANSWER

MINISTER OF STATE FOR ELECTRONICS AND INFORMATION TECHNOLOGY
(SHRI RAJEEV CHANDRASEKHAR)

(a) to (d): The policies of the Government are aimed at ensuring that the Internet in India is Open, Safe & Trusted and Accountable to all users.

The Internet technology and Internet used to be seen as force for good, but in recent years, technology is also exploited for causing user harms and criminality. The number of Internet users in India are 85 crores today making India one of the largest connected democracy on the global Internet. The Government is fully committed to exploit the good of the technologies but is cognizant of the harms, risks and the growing rate of criminalities. The Government intends to ensure the Internet in general and information on it is safe& trusted and takes suitable steps on an ongoing basis to tackle the bad actors.

To ensure that the intermediaries including the social media platforms are always accountable to the safety & trust of the users, the Government after extensive public consultations with relevant stakeholders has laid down the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021("IT Rules, 2021") notified on 25.02.2021 and subsequently amended on 28.10.2022 and 6.4.2023 under Information Technology Act, 2000 ("IT Act").

The IT Rules, 2021 cast the following legal obligations, among others:

- (i) Rule 3(1)(b) of the IT Rules, 2021 prohibits eleven types of content on the Indian Internet available on the intermediary platform including social media platforms.
- (ii) Platforms are required to ensure that their users do not use their platforms for sharing or transmitting content that violates Rule 3(1)(b) and other laws and that their terms of use expressly restrict use of eleven types of content under the law.
- (iii) Rule 3(1)(b)(ii) of the IT Rules, 2021 prohibits any information that is obscene, pornographic, paedophilic, invasive of another's privacy including bodily privacy, etc.
- (iv) Rule 3(1)(b)(v) and (vi) of the IT Rules, 2021 prohibits misinformation and patently false information on the Indian Internet or that impersonates another person. Deepfakes are another form of misinformation powered by AI.
- (v) Rule 3(1)(d) of the IT Rules, 2021 mandates the platforms to ensure expeditious action, well within the timeframes stipulated under the IT Rules, 2021, to remove or disable access to information/content that violates the aforesaid provisions of the IT Rules, 2021, upon

receipt of court orders or notification from the Appropriate Government or its authorised agency or on complaint made by the impersonated individual or person authorised by him in this behalf.

- (vi) Rule 4(2) of the IT Rules, 2021 prescribes that the significant social media intermediaries shall cooperate with Law Enforcement Agencies (LEA) for prevention, detection, investigation, prosecution or punishment by enabling identification of the first originator of information related to the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, or public order, or of incitement to an offence relating to the above or in relation with rape, sexually explicit material or child sexual abuse material (CSAM).

The IT Rules, 2021 cast specific legal obligations and place accountability on intermediaries, including social media intermediaries or platforms, to ensure that they are accountable for their platforms to be safe & trusted and not carrying any content that is violative of rule 3(1)(b) including their expeditious action towards removal of the prohibited obscenity, vulgarity, misinformation, patently false information and deepfakes. As the accountability has been clearly placed upon all intermediary platforms including social media and if any intermediary violates the IT Rules, 2021, they shall lose their safe harbour protection under section 79 of the Information Technology Act, 2000 (“IT Act”) and shall be liable for consequential action or prosecution as provided under any law for the time being in force including the IT Act and the Indian Penal Code.

The Government uses public consultations through Digital India Dialogue (“DID”), as an important way of engaging with all the stakeholders of the digital ecosystem to ascertain various views from time to time. Every law and every rule have been developed with public consultations.

The Government has also established Grievance Appellate Committees under the IT Rules, 2021 to allow users and victims to appeal online on www.gac.gov.in against decisions taken by the Grievance Officers of intermediaries in case they are dissatisfied with the decision of the Grievance Officer in case of legal violations including obscenity, vulgarity, misinformation and deepfakes or where the Grievance Officers fails to redress the grievances from users or victims or an individual or any person on his behalf within the timelines prescribed under the IT Rules, 2021.

In addition, the Ministry of Home Affairs operates a National Cyber Crime Reporting Portal (www.cybercrime.gov.in) to enable citizens to report complaints pertaining to all types of cybercrimes, and also operates a toll-free helpline (1930).

It is further informed that sections 67, 67A and 67B of the IT Act penalise for publishing or transmitting material that is obscene, containing sexually explicit act, etc., and depicting children in sexually explicit act, etc. in electronic form, respectively. Any offence under section 67 is punishable with imprisonment up to three years and with fine up to five lakh rupees on first conviction and five years and with fine up to ten lakh rupees on subsequent conviction and is a cognizable offence, whereas, offences under sections 67A and 67B are punishable with imprisonment up to five years and with fine up to ten lakh rupees on first conviction and seven years and with fine up to ten lakh rupees on subsequent conviction and are cognizable offences.

Further, the Government exercises its lawful rights under section 69A of the IT Act, 2000 to direct platform to take down any anti-national content or any content violative of national security from time to time.

To help achieve the aim at ensuring an Open, Safe and Trusted and Accountable Internet for all Users, the Ministry of Electronics and Information Technology engages with and receives inputs from the public and stakeholders, including in respect of changes required to existing legislation and the need to introduce fresh legislation.
