

SC Ruling on Inquisitorial Powers of Delhi Legislature Against Social Media

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The Supreme Court refused to quash the summons issued to Facebook India managing director Ajit Mohan by a Delhi assembly panel, which had asked him to depose before it to explain the social media company's alleged role in amplifying hate in the capital ahead of the February 2020 riots. The verdict has a wide implication on the federal polity and social media responsibility in India.

In news: The power of scrutiny: SC verdict on Delhi Assembly's Committee on Peace and Harmony

Placing it in syllabus: Governance

Dimensions

- What is the issue?
- SC Ruling in Detail
- Importance of the Ruling
- Drawbacks

Content:

What is the issue?

- Delhi Assembly's Committee on Peace and Harmony had commenced hearings regarding the alleged role of social media giant during Delhi riots of 2020.
- The **committee had issued the summons to Facebook India Vice President and MD Ajit Mohan for failing to appear before it as a witness.**
- Mohan had challenged the summons on the **grounds that the state assembly was barred from dealing with issues such**

as law and order and policing under the existing **scheme of separation of powers** between the central and Delhi governments

- It was argued before the Supreme Court that this was a case of overreach; and that Delhi's law and order came under the central government.
- This was also the position taken by the central government, which argued that the Delhi Assembly had no jurisdiction in this matter.
- The social media platform also pointed out that it was **governed by the IT Act of Parliament**, and this is not therefore something that any State government can be concerned with.

SC Ruling in Detail:

- The Supreme Court **dismissed the plea of Facebook** and Mohan against the summonses issued to him by the Delhi Assembly's Peace and Harmony committee.
- It said the Delhi Assembly's Peace and Harmony **Committee can seek information** from Facebook and its officials in connection with their alleged role in Delhi riots.
- A three-judge bench, headed by Justice Sanjay Kishan Kaul, said: "We cannot accept the plea that an Assembly must confine itself to the core function of legislation. This would be unreasonably restricting the role of an elected body."
- However, the bench **clarified that the committee cannot go into the issue of law and order and act as some kind of prosecuting agency.**
- The bench **recognised that the "inquisitorial and recommendatory powers" of the committee** can be utilised under the **principle of better governance.**
- Facebook's representative would have a **right to refuse to answer** and this **would not invite privilege proceedings**, it added.
- The bench emphasised that entities like **Facebook have to**

remain accountable to those who entrust them with such power.

- The top court upheld the committee's counsel's argument that the **police cannot be the sole custodian of peace and harmony** and that the expression itself has various connotations.
- It added the committee would be entitled to receive information and deliberate on the same to examine their bearing on peace and harmony without transgressing into any fields reserved for the Centre in the Seventh Schedule.
- The bench noted that it was peremptory to see a clash of privilege powers and certain fundamental rights of free speech, silence, and privacy in the present matter.
- The top court brushed aside Facebook's assertion that it was merely intermediary, and added that India's "unity in diversity", cannot be disrupted at any cost or under any professed freedom by a giant like Facebook claiming ignorance or lack of any pivotal role.
- It held that **intermediaries such as Facebook were accountable for content that may amplify hate**, divisiveness and polarisation in a liberal democracy such as India, and cannot evade legislative scrutiny on this score.

Importance of the Ruling:

Highlights the need for Democratic Safeguards

- The Court underscored that the unprecedented degree of influence wielded by social media necessitated the need for safeguards and caution in consonance with democratic values.
- The court said that India's Unity in Diversity cannot be disrupted at any cost or under any professed freedom by a giant like Facebook claiming ignorance or lack of any pivotal role
- "Platforms and intermediaries must subserve the

principal objective as a valuable tool for public good upholding democratic values”, the Court reminded.

Fixing Social Media Responsibility:

- Facebook and other social media platforms cannot take a “simplistic approach” that it is merely a platform posting third party content with no role in generating, controlling or modulating information
- The Court noted that such algorithms are often “far from objective with biases capable of getting replicated and reinforced”.
- The Supreme Court observed that Facebook’s role is not so “innocuous” and is more “active” while dealing with third party information.
- The verdict comes at a time when social media intermediaries are legally fighting some aspects of the new IT rules that govern them.

Federalism and Separation of Powers:

- The verdict comes amid a long phase of discordance over legislative turf between the central government and the Delhi government
- The verdict reaffirms the powers and privileges of the committee of state legislature.
- The Court, in upholding the summons, did not go merely by the legislative powers of a House.
- Its point was that the “inquisitorial” and “recommendatory” powers of a House can be used for better governance.
- However, The Court added that the Delhi assembly panel cannot encroach into the domain of “law and order” during its enquiry, as it is a subject reserved for the Union of India.
- The Court made it clear that the Committee cannot have a misconception that it is some kind of a prosecuting agency which can embark on the path of holding people

guilty and direct the filing of supplementary chargesheet.

Powers to summon non-members:

- The Supreme Court also shed a light on the issues of a non-member being summoned.
- It was held that “members and non-members can equally be directed to appear before the Committee and depose an oath”.

Significance of Inquiry in Functioning of Legislature:

- The judgement goes on to highlight that the inquisitorial role of the Committee in the functioning of the House is of great significance.
- It noted that this task involves the examination of witnesses and is helpful in dealing with matters of special and technical nature, wizedened by the insight into various issues.
- The Court stated that intelligent legislative action and deliberation, therefore, rests upon the power to investigate into questions of public importance.

Drawbacks :

- The verdict now opens the gates for scrutiny of social media platforms by other States, which have significantly more powers with respect to law and order than the Delhi Government.
- Their responsibility toward the many legislatures will only become more heightened because of this verdict.

Mould your thought: Discuss the implications of the Supreme Court verdict on clarifying the powers of Delhi Assembly's Committee on Peace and Harmony.

Approach to the answer:

- Introduction

- Mention the details of the issue in Brief
- Discuss the main issues considered by the court
- Discuss the verdict and its importance
- Mention its drawbacks
- Conclusion