

# Shreya Singhal case

July 19, 2021

**In news-** The Supreme Court recently termed the continued use of Section 66A of the Information Technology Act, 2000 by law enforcement agencies of various states as “a shocking state of affairs”.

## **Key updates-**

- The Union Ministry of Home Affairs (MHA) has requested States and Union Territories (UTs) to direct all police stations under their jurisdiction not to register cases under the repealed Section 66A of the Information Technology Act, 2000.
- It has also requested that if any case has been booked in States and UTs under Section 66A of the IT Act, 2000, such cases should be immediately withdrawn.

## **More information-**

- In 2015, the Supreme court had struck down Section 66A in the landmark case **Shreya Singhal v. Union of India**.
- The court had called it “open-ended and unconstitutionally vague”, and thus expanded the contours of free speech to the Internet.
- Section 66A, introduced in 2008, the amendment to the IT Act, 2000, **gave the government power to arrest and imprison an individual for allegedly “offensive and menacing” online posts**.
- It was passed without discussion in Parliament.
- It empowered police to make arrests over what policemen, in terms of their subjective discretion, could construe as “offensive” or “menacing” or for the purposes of causing annoyance, inconvenience, etc.
- It prescribed the **punishment for sending messages through a computer or any other communication device like a mobile phone or a tablet**, and a conviction could

- fetch a maximum of three years in jail.
- The word “offensive”, having a very wide connotation, was open to distinctive, varied interpretations.
  - It was seen as subjective, and what might have been innocuous for one person, could lead to a complaint from someone else and, consequently, an arrest under Section 66A if the police prima facie accepted the latter person’s view.
  - The **first petition came up in the court following the arrest of two girls in Maharashtra** in November 2012 over a Facebook post in which they made comments on the shutdown of Mumbai for the funeral of Shiv Sena chief Bal Thackeray.
  - The petition was filed by Shreya Singhal, then a 21-year-old law student.
  - Activist Aseem Trivedi was arrested for drawing cartoons lampooning Parliament and the Constitution to depict their ineffectiveness.
  - On March 24, 2015, a bench of Justices J. Chelameswar and R.F. Nariman ruled in Shreya Singhal v. The Union of India declared Section 66A unconstitutional on grounds of violating the freedom of speech guaranteed under **Article 19(1)(a)** of the Constitution of India.
  - The Court held that the Section was not saved by virtue of being a ‘reasonable restriction’ on the freedom of speech under **Article 19(2)**.
  - It also held that the prohibition against the dissemination of information by means of a computer resource or a communication device intended to cause annoyance, inconvenience or insult did not fall within any reasonable exceptions to the exercise of the right to freedom of expression.

The apex Court also **read down Section 79** and Rules under the Section that held that online intermediaries would only be obligated to take down content on receiving an order from a court or government authority.