

Dayalbagh always support freedom of information and expression of thoughts as mentioned by the Honourable Supreme Court of India in its ruling on 10<sup>th</sup> Jan 2020.

# Sec 144 can't be used to quell dissent, repetitive orders an abuse of power: SC

'Can't Be A Tool To Prevent Legitimate Expression Of Opinion Or Exercise Of Democratic Rights; Use Only If Danger Is In Nature Of An Emergency'

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**New Delhi:** Frowning at the mechanical imposition of prohibitory orders under Section 144 of the Criminal Procedure Code (CrPC) since the British era to the present day, the Supreme Court ruled on Friday that they cannot be used to quell dissent or expression of grievance in a democracy.

In its judgment on restrictions imposed on the movement of people in J&K after the August 5 decision to remove its special status and divide it into two Union territories, the bench said, "Power under Section 144 CrPC cannot be used as a tool to prevent le-

## 'USE RESPONSIBLY'

- SC says Sec 144 must be backed by sufficient material **indicating incitement violence or threat to public safety**
- Where fundamental rights are being curtailed, the same **cannot be done through an arbitrary exercise of power**
- Should be used responsibly, is **open to judicial review**
- **Revoke prohibitory orders** if they are not in sync with Supreme Court guidelines

Such a power, if used in a casual and cavalier manner, would result in severe illegality  
—Supreme Court

gitimate expression of opinion or grievance or exercise of any democratic rights."

The bench emphasised that application of the provision should be limited to situ-

ations of emergency and for the purpose of preventing obstruction and annoyance or injury to any person lawfully employed. It also said "repetitive (prohibitive) orders un-

der Section 144 would be an abuse of power" and directed authorities concerned to notify all prohibitory orders passed in J&K so as to enable aggrieved persons to challenge it at an appropriate forum.

But as in the case of the part of the verdict dealing with the suspension of internet in J&K, Justices N V Ramana, Subhash Reddy and B R Gavai recognised the need for the state to use Section 144. The thrust appeared to be more on the prevention of misuse of the provision; to ensure that it was used judiciously rather than turned into a blunt weapon.

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## Govt readying UK deal for Abdullahs?

Government sources on Friday said there were strong indications that the government may be working out a deal where National Conference chairman Farooq Abdullah and his son, former J&K CM Omar Abdullah, would be released from detention in exchange for a promise that they would take a break from active politics for some time, reports Saleem Pandit. A top government source said one idea was to find a way to nudge them to move to the UK for a while. The two leaders could run their party's affairs through agents, the sources added. P 11

# Indefinite Net suspension impermissible, says SC, orders immediate review in J&K

'Freedom Of Speech And Expression And Freedom To Practise Any Profession Or Transact Business Online Is A Constitutionally Guaranteed Fundamental Right'

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**New Delhi:** Thirty-five years after declaring that newspaper publication was part of the right to free speech, the Supreme Court on Friday ruled that expression of views and carrying out trade through internet are also part of the constitutionally guaranteed fundamental right to free speech and indefinite suspension of internet services is impermissible.

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"We declare that freedom of speech and expression and the freedom to practice any profession or carry on any trade, business or occupation over the medium of internet enjoys constitutional protection under Article 19(1)(a) and Article 19(1)(g). The restrictions upon such fundamental rights should be in consonance

## 'CURBS MUST BE PROPORTIONATE'

Freedom of press is a valuable & sacred right... A decision which curtails fundamental rights without appropriate justification will be classified disproportionate

The importance of internet cannot be underestimated, as from morning to night we are encapsulated within cyberspace & our most basic activities are enabled by use of internet

SC bench of Justices  
**N V Ramana, R Subhash Reddy & B R Gavai**

with the mandate under Article 19(2) and (6) of the Constitution, inclusive of the test of proportionality," a bench of Justices N V Ramana, R Subhash Reddy and B R Gavai said.

The verdict came on peti-

tions filed by Congress's Ghulam Nabi Azad and Kashmir Times publisher Anuradha Bhasin against the suspension of internet in the wake of the Centre's decision to scrap the special status for J&K.

The SC said it did not test

"whether right to access to internet is a fundamental right" and was hence not expressing any opinion on it as none of the counsel advanced any arguments on this issue.

The order marked an attempt to deal with the perenni-



Mobile phones, landlines, and internet services were suspended in the Valley on Aug 4, 2019. An international advocacy group has called J&K net shutdown the longest-ever in any democracy. A UK tech research firm recently said state-imposed net blackouts cost the Indian economy \$1.3bn last year

al tension between the right to freedom and liberty and the requirements of national security and public safety, with the court seeking to locate the pendulum in the middle. It placed the "legitimate" use of internet in the pantheon of fundamental rights, while acknowledging that it was subject to reasonable restrictions, like other fundamental rights.

On balance, the court took the line that while access to internet should be the norm, deviations could be allowed in the interest of order and safety provided they were temporary, proportionate and justified by reasons which were spelt out clearly and reviewed periodically.

"We direct the state and competent authorities to review all (existing) orders suspending internet services forthwith," the bench said.

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