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**RISING DIGITAL CENSORSHIP IN  
INDIA**

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## RISING DIGITAL CENSORSHIP IN INDIA

### Context

- Recent blocking of video of a comedian (Pulkit Mani) under **Section 79(3)(b) of the IT Act** highlights growing concerns over **opaque and arbitrary digital censorship** in India. These episodes reflect a broader, **systemic expansion of executive-led censorship infrastructure** in India's digital public sphere.

### About Digital Censorship in India

- Digital spaces in India, once seen as engines of democratic expression, are increasingly witnessing **state-led regulation and content control**.
- Recent developments point toward a **steady expansion of censorship powers**, raising concerns over **free speech, transparency, and accountability**.

### Legal Framework Governing Online Content

- **Information Technology Act, 2000:**
  - ◆ **Section 69A:** Empowers the government to block websites/content; upheld by the Supreme Court but with procedural safeguards including reasoned orders and hearing opportunities.
  - ◆ **Section 79:** Grants safe harbour to intermediaries; requires action only upon government or court orders — not private complaints (Shreya Singhal, 2015).
- **IT Rules, 2021 (and Amendments):** Regulate social media intermediaries, OTT platforms, and digital news. Introduced content takedown mechanisms, grievance redressal, and compliance norms — but have been continuously amended to expand executive reach.

### Recent Developments and Expanding Powers

- **Sahyog Portal (October 2025):** Enables more than 35 state police units and 8 central agencies to issue takedown orders, creating decentralised censorship without accountability.
- **Tightened Takedown Timelines (February 2026):** Amendment reduced timelines to 3 hours with no exemptions for satire, parody, or artistic expression.
- **Amendments Proposed in 2026:**
  - ◆ Extend regulation to **individual social media users**;
  - ◆ Attempt to indirectly implement **Broadcasting Bill, 2024** provisions;
  - ◆ Grant legal force to **informal advisories and SOPs**;
  - ◆ Remove cap on **data retention by intermediaries**;

### Key Issues and Concerns

- **Violation of Fundamental Rights:** IT Rules may lead to **overbroad and disproportionate censorship**.
  - ◆ Article 19(1)(a): Freedom of speech and expression
  - ◆ Restrictions must satisfy **Article 19(2)** (reasonable restrictions)
- **Lack of Due Process:** No prior hearing or reasoned orders; users unaware of who ordered censorship, and why content was removed.
  - ◆ It undermines **natural justice principles**.

- **Executive Overreach:** Rules framed through **delegated legislation**; and continuous expansion without parliamentary scrutiny.
  - ◆ It is seen as a shift toward an **'administrative censorship regime'**.
  - **Chilling Effect on Free Speech:** Fear of penalties leads to **self-censorship** that impacts satire, comedy, journalism, and political commentary.
- **Overlapping Legal Powers:** Multiple provisions like Section 69A, Section 79 of IT Rules creates **confusion and arbitrariness in enforcement**.
- **Limitations of Judicial Response:**
  - ◆ **Delayed Adjudication:** Long pendency weakens **constitutional protection**.
  - ◆ **Fragmented Approach:** Different High Courts having **inconsistent rulings**.
  - ◆ **Limited Oversight on Executive Actions:** Courts rarely review individual blocking orders, and secretive censorship mechanisms.

### Judicial Response to Rising Digital Censorship in India

- **Shreya Singhal v. Union of India (2015):** It struck down **Section 66A** of the IT Act as unconstitutional, and laid down the **foundation of digital free speech jurisprudence**.
  - ◆ It upheld **Section 69A (blocking powers)** but with safeguards like reasoned orders, opportunity for hearing, and limited to Article 19(2) grounds.
  - ◆ It clarified **Section 79 (safe harbour)**, and intermediaries need to act only on **court/government orders**, not private complaints.
  - ◆ It established that **vague and overbroad restrictions violate Article 19(1)(a)**.
- **Apoorva Arora v. Govt. of NCT of Delhi (2024) Case:** It emphasized the **need for objective criteria** to determine obscenity, focusing on whether content arouses sexual or lustful thoughts rather than the perceived decency of language.
  - ◆ However, subjective interpretation remains a challenge.
- **Key High Court Responses:**
  - ◆ **Kerala High Court (2021):** It granted **interim protection** to petitioners, and recognised **possible chilling effect** on free speech.
  - ◆ **Bombay High Court (2021):** It struck down **Rule 9 (Code of Ethics)** for digital news, and held it violated **freedom of press and expression**.
  - ◆ **Madras High Court:** It expressed concerns over **overregulation of digital media**, and threat to **editorial independence**.
  - ◆ **Delhi High Court:** It allowed continued operation but acknowledged need for **judicial scrutiny**, and issues of **proportionality**.

### Key Judicial Principles Emerging

- **Doctrine of Proportionality:** Restrictions need to be necessary, and least restrictive.
- **Due Process Requirements:** Mandatory notice, hearing, and reasoned orders.
- **Protection Against Vagueness:** Laws need not to be overbroad, and ambiguous.
- **Safe Harbour Protection:** Intermediaries not liable unless they fail to comply with **valid legal orders**.

**Way Forward**

- **Strengthening Procedural Safeguards:** Mandatory reasoned orders, right to hearing, and transparency reports.
- **Parliamentary Oversight:** Convert key rules into **legislation**, and limit excessive delegated powers.
- **Independent Regulatory Body:** Reduce direct executive control, and ensure accountability.
- **Protecting Legitimate Expression:** Explicit exemptions for satire, artistic content, and political speech
- **Harmonisation of Laws:** Avoid duplication across IT Act, IT Rules, and proposed Broadcasting laws.

**Conclusion**

- The **expansion of opaque censorship powers without safeguards risks undermining democratic values**, while regulation is necessary to tackle misinformation and security threats.
- A balanced approach rooted in **constitutionalism, transparency, and accountability** is essential.

Source: IE

**Daily Mains Practice Question**

- [Q] The Information Technology Rules, 2021 have expanded the State's regulatory powers but raised serious concerns about digital freedom. Discuss in the context of rising digital censorship in India.