

**AN ANALYTICAL STUDY ON
MEDIA LAWS IN INDIA WITH
REFERENCE TO
CONSTITUTIONAL FRAMEWORK
AND RIGHT TO INFORMATION**

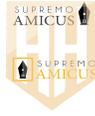
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Abstract: - . Medianow days has become the essential part of a common man life whether it is print media or electronic or social media. Media has become a medium through which thoughts and ideas are exchange and for the same reason media is consider has the fourth Estate and fourth Pillar of a democracy. Media always plays a crucial role in strengthening the democratic base of government by establishing a close link between government agencies and general public by providing a platform for open discussions, sharing of views and opinions. Since ages there always has been a conflict between government and excessive right to freedom of press starting from British India Era to till date. The paper tries analysis the various legal provisions relating to Media law and the restriction which are imposed on it by the Constitutional provisions. This paper consists of critical analysis on issues relating to the freedom of press with help of case laws and why this right is not absolute and to what extend it should be used by media houses so that the purpose of democracy should be stained and a healthy peaceful environment can be maintain in society.

Keywords : - Constitutional provisions, Democracy , Freedom of Press, Government Agencies , Media Law

Introduction : Media is an essential attribute of a democratic government. Media tries to act as a mirror to society and is always consider has as a powerful channel of communication. The main and primary objective of Media to keep people awakened about the social, economic and political conditions of their country. And people of any democratic country are highly dependent upon the different sources of media for collecting the information regarding these aspects. There is no denying in the fact that media is performing its duties very well in awaking and educating people. Media has become one of the major instrument to bring a social change. It has become medium through which thoughts, views and opinions and ideas are expressed shared and exchanged on a national platform with the advent development of technology Media acts has a sincere friend of the citizens by providing them needful information and making them aware about their rights and duties.

Freedom of Media and Constitutional Framework : - Constitution is said to be basic law of land. It is consider has fundamental document of a country that governs the citizens of a country. Constitution of India has given some fundamental rights to its citizen under the Article 14 to 32 and one of them is Freedom of speech and expression which includes freedom of press under Article 19. Liberty of thoughts and expression is also given in the Preamble of the



Constitution which is considered as preface to the Indian Constitution. The provisions under the constitution not only guarantee citizens, the right to speak but also to express any opinion in any form. The Indian Constitution does not merely expressly mention the freedom of press (which includes both freedom to print and publish) but it is implicated from freedom of speech and expression which is guaranteed under Article 19(1)(a) of the Constitution. Freedom of Press is an inherent provision covered under Article 19 of Indian Constitution. According to sArticle 19(1)(a) of India “All the citizens shall have the right to freedom of speech and expression.” This right is the bulwark of a democratic government. Apart from holding freedom of opinion and expression, this right also gives citizens to hold opinions without interference and to seek, receive and impart information and ideas through media houses. *In Printers (Mysore) Ltd v . Assistant CommercialTax Officer*, the Supreme Court has reiterate that though freedom of the press is not expressly guaranteed as a Fundamental Right , it is implicated in the freedom of speech and expression. Freedom of the Press has always been a cherished rights in all democratic credentials of a state are judged by the extent of freedom the press enjoy in that state.

The Supreme Court has laid emphasis in several cases on the importance of maintaining freedom of press in a democratic society. The press seeks to advance public interest by publishing facts and opinions without a democratic

electorate cannot make responsible judgments .

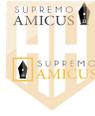
***Reasonable Restriction on the Rights* :-**

The rights guaranteed under Article 19(1)(a) are not absolute but subjected to reasonable restriction. These restriction are imposed by constitution itself. Thus, Clause (2) to (6) provides the grounds for the restrictions. The restriction can be imposed on citizens by the State. State includes any of the authorities who are include in definition of ‘State’ in Article 12 of the Constitution who are competent to make laws. The word law has defined in the Article 13(3)(a) of the Constitution. The Constitution of India does not define the term “Reasonable Restrictions”, but the Constitution of India has laid down the grounds for imposing the restriction in Article 19(2). The grounds of restrictions are:-

- A. Sovereignty and Integrity of India.
- B. Security of the State.
- C. Friendly Relations with Foreign States.
- D. Public Order
- E. Decency or Morality
- F. Contempt of Court
- G. Defamation

***Different Aspects of Freedom of Press* :**

- 1. **Press freedom and Circulations** :- It has interpreted from various judicial cases that freedom of speech and expression , is a fundamental right under Article 19 of Indian Constitution also includes freedom of propagations of ideas or views which is ensured by the freedom of circulation in any form either mass ,



print or electronic media. In *Romesh Thapper v State of Madras*, it has held that Article 19(1)(a) also includes freedom to propagate ideas. Circulation is the lifeline of this freedom and to ban entry of newspaper or stop its circulation is to cut the lifeline of the expression guaranteed by Article 19(1)(a). Circulation of ideas can be any form for e.g. in form of audios, videos, in writing, through press also.

Without right to circulate, the freedom of speech and expression is incomplete. Therefore, freedom of circulation is must and it has been held to be essential by court in many judicial interpretation. Any attempt which denies citizen their right to circulate and propagate their ideas in any reasonable form should be frowned upon unless it comes under reasonable restrictions as defined under Article 19 (2) of Indian Constitution.

2. Right to report court proceedings: Under this media houses has right to report the matters decided in court of law which has direct link with the interest of general public. It is so important because it tries to enhances the knowledge of them.

2a. Justification of this right – In various cases and circumstances the question was raised – Whether this right is absolute or not? The Supreme Court has answered this question in Case of *Naresh Shridhar Mirajkar v. State of Maharashtra*, that court may restrict the proceedings of court in interest of justice.

Bombay High Court has said that “ the journalists has a fundamental right to attend the court proceedings in any of the court that comes under Indian Territory and to publish a faithful report of the proceedings witnessed and heard by them in court.”

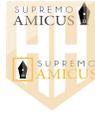
Thus, it is clear that the media houses should report the matters decided in court or any judgment or any decree or any precedent given by a judge in court of law provided that the report is in the interest of general public and report that is presented is free from error.¹

But, the right given to media to publish is not absolute, particularly in case of sensitive issues where there is necessity to maintain some restraint and secrecy for the interest of justice. In such cases the identity and any further details of the parties are not disclosed in front of public.

For sake of providing justice, court make restrict or prohibits media not to disclose the names of parties or any names relate to case.

3. Right to advertise :- Whether right to advertise for commercial purposes comes under Article 19(1)(a)? This has become a debatable issue these days. But at the first instance Supreme Court denied to give protection to this right. In cases such as *Hamdard Dwakhana v. Union of India*, Supreme court held ‘ commercial advertisement’ should not be covered within the scope and meaning of freedom of speech and expression.

¹Saroj Iyer v. Maharashtra Medical (Council) of Indian Medicine, AIR 2002 Bombay 97.



But , later In *Tata Press Ltd v. Mahanagar Telephone Nigam Ltd*, the Supreme Court held at the ‘ commercial speech’ is part of freedom of speech and expression guaranteed by the Article 19(1)(a) as it is right of businessman to express his views about his product and expressions.

In *Bennett Coleman and Co. v. Union of India* , Supreme Court again held that right of advertisements is included within the scope of Article 19(1)(a). Supreme Court stated that advertisement is included in a way of holding an opinion and expressing views. And any restraint on publishing advertisements would be infringing the fundamental right of propagation , publication and circulation of ideas .

Freedom of Press and the Right to Information :-

Right to information or right to know is inherent from Right to Freedom of speech and expression. But as other fundamental rights stated in Article 19(1) , this right is not absolute and are subjects to reasonable restriction . When people aspire to have information regarding any public matters, government decision and policies, regarding the working of any government office, government is also responsible to provide them all such information .Thus , media houses help the general public to provide all the information regarding the functioning of government. In a democratic set –up government cannot deny to provide useful information to public. Press and media plays a vital role in democratic culture of open society to help general public in seeking relevant information.

Freedom of Information and International Scenario :- In Today’s era almost in all the democratic countries , Media and Press enjoys a great freedom and a plays a crucial role in dissemination of news as far as concerned.

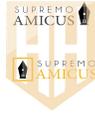
The first international organization of working newspapermen called “ The Federation Intenationale des Journalistes was founded in Paris in 1921 which was mainly concerned with working conditions of the journalists and for promoting and developing self- discipline within the profession it took a number of steps.

The Universal Declaration of Human Rights , 1948 also provides for freedom of information . This Universal Declaration of Human Rights was proclaimed on 10th December, 1948. Article 19 of Universal Declarations of Human Rights says,

“Everyone has the right to freedom of opinion and expressions; this right includes freedom to hold opinion without interferences and to seek and , receive and impart information and ideas through any idea through any media and regardless of fronteirs”.

All the democratic nations either through their constitution or through any specific laws incorporated the legal provisions for free flow for exchanging the views and expressions.

1. **Judicial interpretation of the expression “Right to information”** - In *State of Uttar Pradesh v. Raj Narain* , the Supreme Court held that “ right to know”



is inherent from the concept of freedom of speech. Similarly in case of S.P. Gupta v Union of India, it was held by the court that “right to know , receive and impart information has been recognized within the right to freedom of speech and expression. A citizen of India has a fundamental right to receive any information of the matter so concerned.

The Right to Information Act, 2005: - RTI provides an effective framework for implementing right to seek information or right to know stated under Article 19 of the India Constitution. But it also imparts reasonable restrictions on seeking information. The main whole and soul objective of the act is to set up a practical regime to access information in a procedural established under the Act. The act impose restriction on seeking information regarding the following issues:-

- a. Any information which can affect the sovereignty and integrity of the state.
- b. Any information which is received from in confidence from foreign nation.
- c. Any information which can harm the security and peaceful environment of the country
- d. Any disclosure that can cause breach of privilege of Parliament or the Responsibility of Media.

Role of Media as sincere friend of public : - The role of Media is not only to make people aware , but they also have responsibility and duty towards the government to see that only that information should be supplied to public is accurate and does not come under the

reasonable restrictions. With the development of technology and widespread use of internet and others modes of advanced communication technology it has become easier for media to reach and communicate with people as quickly as possible.

Conclusion : - In the age of information , ignorance and illiteracy has no place and the people are required to be more vigilant , aware and informative. They should have the capacity to seek information and should have knowledge of their rights and duties which is provide to them by the Constitution or any Act. Media houses should all the information which is required by the public as Constitution provide “Right to Media” which is expressly defined under Article 19 . As the right is not absolute and comes under reasonable restrictions ,so it is duty of media to follow the prescribed restrictions and follow the norms of the democratic government.
