



Section 66A of IT Act

The Supreme Court sought the Centre's response to a plea alleging that **despite the striking down of draconian Section 66A of the IT Act in 2015 by the apex court**, police in various states were still invoking it in FIRs to clamp down on free speech on social media platforms.

- The petition said a recent working paper by the **Internet Freedom Foundation** demonstrated that pending prosecutions under Section 66A had not been terminated, and further it continued to be invoked by police across India in FIRs registered after the 2015 judgment.
- The petition said there had been a **huge communication gap** at the ground level and many officials may not even know about the Supreme Court verdict.
- It said trial courts and prosecutors were **not actively implementing the verdict** and the burden of terminating illegal prosecutions **based on Section 66A fell on the accused persons**.

Background

- Section 66A dealt with **information related crimes** in which sending information, by means of a computer resource or a communication device, which is inter alia offensive, derogatory and menacing is made a punishable offence.
- In **Shreya Singhal v. Union of India** judgement, Justices Rohinton F. Nariman and J. Chelameswar had observed that the weakness of Section 66A lay in the fact that it had **created an offence on the basis of undefined actions**: such as **causing "inconvenience, danger, obstruction and insult"**, which **do not fall among** the exceptions **granted under Article 19** of the Constitution, which guarantees the freedom of speech.
- The court also observed that the challenge was to **identify where to draw the line**. Traditionally, it has been drawn at incitement while terms like obstruction and insult remain subjective.
- In addition, the court had noted that **Section 66A did not have procedural safeguards** like other sections of the law with similar aims, such as :
 - The need to obtain the concurrence of the Centre before action can be taken.
 - Local authorities could proceed autonomously, literally on the whim of their political masters.
- The judgment had found that **Section 66A was contrary to both Articles 19 (free speech) and 21 (right to life) of the Constitution**. The entire provision was struck down by the court.
- After that government had appointed an expert committee (**T.K. Viswanathan committee**) which proposed a legislation to meet the **challenge of hate speech online**.