

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

EDITORIAL TEAM

EDITORS

Megha Middha



Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

INFRINGEMENT OF COPYRIGHT

AUTHORED BY: SAHIL SHYAM SHARMA

INSTITUTION: ALLIANCE UNIVERSITY, BANGLORE

CASE: Neetu Singh and Anr. v. Telegram Fz Llc and Ors., 2022

Introduction:

The case was filed in the court of New Delhi in Justice Pratibha Singh's Court. The case is about the infringement of copyright of the plaintiff by the users of an app owned by the defendant. The suit is filed for the injunction restraining infringement of copyright and disclosure of identity of such users (Other Respondent) who are unidentified and are protected under the policies of the telegram app (First Respondent).

Facts:

The case of the Plaintiffs is that Plaintiff No.1 is a renowned author of books which are designed to train students aspiring to take various competitive examinations including the examinations of Staff Selection Commission (SSC), Bank Probationary Officer (PO), etc. Ms. Neetu Singh founded Plaintiff No.2 - M/s K.D. Campus, which runs coaching centers for these competitive exams. The suit has been filed by the Plaintiffs against Defendant No.1/Telegram FZ LLC (hereinafter "Telegram") and Defendant No.2, i.e., unknown persons.

The allegation in the suit is that the Plaintiffs' copyrighted works including course material, online lectures and other works are being disseminated unauthorizedly through various Telegram channels, some of which, as set out in the plaint, are as under: • Neetu maam course (t.me/vshusinha1010); • Neetu singh mam (t.me/EnglishbyNeetusinghmam); • English (t.me/neetu_singh_mam); and many more such channels. The Plaintiffs aver that on these channels, videos of the lectures delivered by Plaintiff No.1 are being uploaded daily and made accessible to students at discounted rates. The screenshots of the said videos are extracted in the plaint. The Plaintiffs also found that the books of the Plaintiffs including books titled 'Plinth to

Paramount' etc. are being circulated in PDF formats on Telegram channels¹.

In so far as Telegram's role is concerned, according to the Plaintiffs, as per the Privacy Policy of Telegram, any abuse on Telegram channels can be reported. Accordingly, after acquiring knowledge of the illegal dissemination of the Plaintiffs' works, e-mails were sent to the e-mail addresses where abuse can be reported including abuse@telegram.org and dmca@telegram.org, and the Plaintiffs called upon Telegram to take down the impugned channels. Upon receipt of the said notices some channels were taken down by Telegram, but some infringing channels continued to exist, and new channels came up daily.

Reliefs contended by plaintiffs:

1. Permanent injunction restraining the Defendant No. 1 and 2, from publishing, distributing, selling, offering for sale, circulating and unauthorized use of the literary work "Plinth to Paramount", lectures, videos, notes, and any other original work of the Plaintiffs; on their platform.
2. For a decree for amount of damages as may be determined by Court.
3. The costs of the suit be awarded to the Plaintiffs.
4. Any other relief which the Hon'ble Court thinks fit and proper in the case's circumstances be allowed in favor of the Plaintiffs and against the Defendants.

Submission (Plaintiff's Counsel):

It was submitted by the counsel that as per clauses 3.3.5, 5.3,8.3 of the Privacy policy of Telegram itself, it has been expressly mentioned that in case of violation of law, Telegram is liable to take down such channels and disclose information of the person handling such channels. Thus, the submission for such information is submitted by plaintiff to recover damages or avail any other remedy against the person. Furthermore, it was added that the defense of Singapore law by the Defense council cannot be appropriate in the consideration as such destroys the jurisdiction of the Courts.

¹ <https://indiankanoon.org>

Submission (Defendant's Council):

The counsel submitted that the arrangements were already taken by Telegram by removing the channels which were infringing the plaintiff's copyright. He further added that clause 8.3 of Privacy policy mentions that the information of the user would only be disclosed when the user indulges in some terror activities. The counsel further quoted that Rule 4 of IT Guidelines which stated that unless any circumstances mentioned in first proviso to Rule 4 (1)(2) is satisfied, even court cannot order to disclose the personal information. The counsel emphasized on the fact that Telegram has its servers based in Singapore as encrypted data and decoding would only be permissible by Singapore law. Under section 17 of Personal Data Protection Act, 2012 of Singapore law says that information Telegram may reveal certain information upon direction by a "Court", since the "Court" in terms of the Interpretation means a court of Singapore, therefore, Indian Courts would not be empowered to pass an order for disclosure of any information. Finally, Section 72A of Information Technology Act, 2000 was taken as a ground for defense as it mentions that any disclosure of information in breach of a lawful contract and would lead to an offense.

Court Findings:

The court held that the plaintiff has right to the copyright for her work under the Copyright Act, 1957 as her works comes under the context of 'literary work' mentioned in the section 2 (o) and the videos compiled also completes the requisites to come under the meaning of 'cinematograph film' under section 2 (f) of the copyright act. Thus, Section 14 of the Copyright Act exclusively provides the copyright owner with a right to electronic reproduction of work, and issuance of copies of the work which are protected. So, the court held that plaintiffs are eligible to get civil or criminal remedies, when their rights are infringed, provided under the act. The court was of the opinion that it is important to protect and enforce the rights and they can merely not be dismissed just because there is an advancement in technology which made infringers mask their identities and continue the act of infringement. They recognized that it is difficult to locate the users who are continuously creating a channel which are infringing the plaintiff's copyright. The user's real identity is perfectly shielded because of the policies of Telegram. Further, court held that as infringements are happening in the Indian regime i.e., in New Delhi and are functioning in Indian Territory and are concerned with Indian competitive courses like PO, SSC etc., therefore, it is impossible to rule out the jurisdiction of Indian Courts in the said matter just only on the ground that their servers are situated abroad.

Court held that under Section 79 (3)(b) of IT Act, 2000, Telegram is obligated to disable access to the unlawful or infringing materials. Additionally, Rule 3 of IT Guidelines specifically provides that intermediaries cannot host, upload, edit, alter, transmit, update, or share information which led to infringement. Defendant's invocation of judgement in Puttaswamy would also be nullified because Supreme Court has acknowledged the fact that right to privacy does not provide a ground for non-disclosure of information if the matters call for so². In this case, the Copyright Act has power to take into custody the 'infringed copies' of the work.

Judgement:

The court held that Defendant No.1 i.e., Telegram is directed to disclose the details of the channel owners or users which published the infringing content. The Device details used for uploading the infringing material and communicating the same shall also be disclosed. If there is any further list of infringing channels, the same should also be submitted within one week. The data relating to the infringing channels and the details as to the devices or servers on which they are customized, created, operated, or published for the purpose of infringing the plaintiff's work, it should be disclosed by Telegram within a period of two weeks thereafter.

Cases Referred:

1. Justice K.S.Puttaswamy and Anr. vs Union of India and Ors., 2017
2. M/S Knit Pro International vs The State of NCT of Delhi and Anr., 2022.
3. Indian Bank vs M/S Satyam Fibres (India) Pvt.Ltd, 1996
4. Krishan Yadav vs State of Haryana 1994 AIR 2166, 1994 SCC (4) 165
5. My Space Inc. vs Super Cassettes Industries Ltd., 2016
6. Tara Batra vs Punam A Kumar & Ors, 2021
7. Christian Louboutin Sas vs Nakul Bajaj & Ors, 2018

² <https://www.khuranaandkhurana.com>

Personal Analysis:

According to me offenders and shutting down the channels which were copying the original work of the Neetu Singh (Plaintiff) because she prepared everything out of her time, intellect, labor, and resources. Thus, it is natural for her to use her intellect work to earn a standard of living and if her hard work is being sold by others who just want easy money, then it is both morally and legally wrong. The protection provided as per the policies of Telegram is to safeguard the identities of its users but using these policies to mask their identities and continuing going against law is wrong. Thus, it can be concluded that Law shall always find a way to subsist in the dynamic era., the decision to disclose the personal data was valid. The whole purpose of law is to protect the rights of the people, and law itself cannot become a shield for the offenders and their wrongdoings. In the present case, the Neetu Singh had full right and authority to ask for disclosure of the

