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JUDICIAL INTERPRETATION OF COPYRIGHT **SOCIETIES IN INDIA: FROM IPRS V** **EIMPA TO VODAFONE V SAREGAMA (2024)**

AUTHORED BY - ARCHANA P

Abstract

This article traces the evolution of Indian judicial interpretation regarding copyright societies, from the landmark *IPRS v Eastern India Motion Pictures Association* (1977) to recent High Court decisions such as *Vodafone Idea Ltd v Saregama India Ltd & IPRS* (2024). It examines the tension between Sections 30 and 33 of the Copyright Act, 1957—particularly the power of copyright owners to issue licences individually versus the statutory regulation of collective licensing. With detailed analysis of Section 18's provisos and the impact of the 2012 Copyright (Amendment) Act, the article illustrates how courts have increasingly recognised the rights of authors and performers in musical and literary works. Drawing on key cases across Delhi, Bombay, Calcutta, and Madras High Courts, it evaluates both doctrinal clarity and regulatory implications. A comparative glance at EU, UK, and US frameworks reveals areas where Indian jurisprudence aligns or diverges. The article concludes that while courts have moved toward greater recognition of authorial rights and accountability for societies, inconsistencies in interpreting Sections 30 and 33 remain, demanding legislative or Supreme Court clarification.

1. Introduction

The collective management of copyright is a foundational institution within intellectual property law, intended to bridge the enforcement gap between individual authors and the commercial exploitation of their works. In India, the development of copyright societies like the Indian Performing Right Society (IPRS) and Phonographic Performance Ltd (PPL) has been legally framed within the Copyright Act 1957, particularly through Sections 30, 33, and later amendments in 1994 and 2012.¹

Despite these provisions, the Indian judiciary has grappled with the functional and legal autonomy of such societies. At the heart of the legal debate lies the tension between Sections

¹ The Copyright Act 1957, ss 30 and 33.

30 and 33. Section 30 allows a copyright owner to grant licences, while Section 33 requires that entities involved in the business of licensing be registered as copyright societies.²The ambiguity in how these sections interact has led to diverging judicial interpretations. Meanwhile, Section 18, particularly after the 2012 amendment, has been crucial in protecting the economic rights of authors and performers, mandating royalty sharing even in cases of full assignment.³

This article explores the evolution of Indian courts' interpretations of copyright societies' powers, duties, and author-member rights—tracing a path from the 1977 Supreme Court ruling in *IPRS v EIMPA* to the 2024 Calcutta High Court decision in *Vodafone Idea Ltd v Saregama & IPRS*, with comparative insights from EU, UK, and US regimes.

2. The Foundation: *IPRS v EIMPA* (1977) and the Producer-Centric Legacy

The decision in *Indian Performing Right Society Ltd v Eastern India Motion Pictures Association* is a cornerstone case in the history of Indian copyright law.⁴ The Supreme Court held that where a composer or lyricist was employed under a contract of service, the producer of the cinematograph film would be deemed the first owner of the work incorporated in the film, under Section 17(b) and (c) of the Copyright Act.⁵

This ruling had two major implications. First, it entrenched a producer-centric model of ownership in film music. Second, it significantly limited the ability of authors to enforce their rights through copyright societies like IPRS. Since producers became the legal owners of both the film and its embedded works, authors had no standing to claim royalties unless specifically retained by contract.⁶

The ruling did not account for the different nature of rights associated with public performance or broadcasting, leading to a legal vacuum that would persist until the 2012 amendment. Courts across the country echoed the Supreme Court's stance, thereby marginalising the role of copyright societies in protecting the economic interests of lyricists and composers.⁷

² *ibid.*

³ The Copyright (Amendment) Act 2012, s 18, inserted provisos.

⁴ *Indian Performing Right Society Ltd v Eastern India Motion Pictures Association* AIR 1977 SC 1443.

⁵ Copyright Act 1957, s 17(b), (c).

⁶ *ibid.*

⁷ Nandita Saikia, *Copyright and the Music Industry in India* (Oxford University Press 2021) 132.

3. Section 18 and the 2012 Amendment: Towards Author-Centric Reform

The Copyright (Amendment) Act, 2012 represented a significant shift in the balance of rights between authors and assignees.⁸ The Act introduced three critical provisos to Section 18:

1. That authors of literary and musical works incorporated in a film or sound recording shall not be deemed to have waived their right to royalty;
2. That this right continues irrespective of any assignment;
3. That such royalties must be shared on an equal basis in cases of public communication.⁹

These changes were driven by extensive parliamentary debates, led by concerns about the economic exploitation of creative professionals by large production houses and music labels.¹⁰ In *IPRS v Rajasthan Patrika*, the Bombay High Court upheld the society's claim for unpaid royalties from an FM broadcaster, stating that Section 18 created a non-waivable right.¹¹ The Court noted that even if authors had assigned their rights to a producer, the royalty obligation survived.

The Delhi High Court in *Shiv Kumar Sharma v Universal Music India* similarly affirmed the author's continuing entitlement to royalties from digital streaming platforms.¹² In *Lalit Pandit v Tips Industries Ltd*, the Court extended the application of Section 18's provisos to online platforms, including Spotify and YouTube, affirming that royalty-sharing principles apply beyond traditional broadcast.¹³

These decisions collectively mark a judicial shift toward restoring the author's economic dignity and reinforcing the fiduciary obligations of copyright assignees and societies.

4. Licensing Power and the Section 30–33 Conflict: Doctrinal Ambiguity and Case Law Divergence

The interplay between Section 30 (which permits owners to license their works) and Section 33 (which mandates registration for entities doing so as a business) has been fraught with doctrinal uncertainty.¹⁴

⁸ Copyright (Amendment) Act 2012, s 18, provisos 1–3.

⁹ *ibid.*

¹⁰ Rajya Sabha Debates (22 May 2012), Statements by Minister Kapil Sibal on the Copyright (Amendment) Bill.

¹¹ *Indian Performing Rights Society Ltd v Rajasthan Patrika Pvt Ltd* (Bom HC, 2023) (unreported).

¹² *Shiv Kumar Sharma v Universal Music India Pvt Ltd* (2021) CS(COMM) 1121/2019 (Del HC).

¹³ *Lalit Pandit v Tips Industries Ltd* (Bom HC, 2023) (unreported).

¹⁴ See Copyright Act 1957, ss 30, 33.

A key turning point was *Novex Communications Pvt Ltd v Lemon Tree Hotels*, where the Delhi High Court held that Novex, being the assignee of sound recordings, could license them under Section 30 without registering as a copyright society.¹⁵ The Court interpreted "business of licensing" under Section 33 narrowly, allowing individual transactions by owners.

In contrast, *Novex v DXC Technology* took a restrictive approach. The Madras High Court emphasized that even copyright owners, if they systematically issue licences, fall under the purview of Section 33.¹⁶ It distinguished between occasional licensing and carrying on licensing "as a business."

The Bombay High Court's ruling in *Event and Entertainment Management Association v Novex* provided a nuanced position, allowing licensing under Section 30 only if the licensor is not engaged in the business of such licensing.¹⁷ The Court stressed that acting on behalf of multiple producers or labels converts the transaction into a "business," thereby invoking Section 33 compliance.

The most definitive rejection of Novex's claim came in *Phonographic Performance Ltd v Azure Hospitality*, where the Court held that Section 33 is the overriding provision, applicable to all entities that license music publicly, regardless of ownership.¹⁸

This divergence highlights the need for legislative clarification or a constitutional bench decision of the Supreme Court to reconcile these interpretations.

5. Registration and Standing of Copyright Societies: Procedural Compliance as Substantive Right

Courts have treated the registration requirement under Section 33 not as a procedural formality, but as a substantive gateway to legal standing.

In *IPRS v Aditya Pandey*, the Delhi High Court dismissed the society's suit on the ground that IPRS had lost its registration at the time of filing, and thus lacked standing to claim

¹⁵ *Novex Communications Pvt Ltd v Lemon Tree Hotels Ltd* 256 (2019) DLT 321 (Del HC).

¹⁶ *Novex Communications Pvt Ltd v DXC Technology Pvt Ltd* WP No. 22188 of 2020 (Mad HC).

¹⁷ *Event and Entertainment Management Association v Novex Communications Pvt Ltd* Commercial Suit No. 25 of 2021 (Bom HC).

¹⁸ *Phonographic Performance Ltd v Azure Hospitality Pvt Ltd* CS(COMM) 320/2023 (Del HC).

infringement.¹⁹ The ruling established that unregistered societies cannot function in the capacity of rightsholder representatives.

Similarly, in *Novex v Trade Wings Hotels*, the Bombay High Court reaffirmed that licensing without registration renders the enforcement claim untenable.²⁰ The Court equated such action to unauthorized collection, likening it to unauthorised commercial exploitation.

These decisions reinforce the statutory architecture envisioned by the 2012 amendment—that societies function under state oversight, ensuring transparency, proper member representation, and equitable royalty distribution.

6. Enforcement of Author and Society Rights in Post-2012 Litigation

A robust body of case law post-2012 has affirmed the statutory rights of authors and the legal authority of societies:

In *IPRS v Rajasthan Patrika* (2023), FM broadcasters were held liable for communicating works to the public without author consent or royalty payment.²¹

In *Vodafone Idea Ltd v Saregama India Ltd & IPRS* (2024), the Calcutta High Court ruled that callertunes, ringtones, and music clips offered via mobile platforms constitute “communication to the public” under Section 2(ff).²² It imposed licensing obligations not just on producers like Saregama but also on telecom service providers. The Court confirmed that authors’ rights under Section 18 are independent and non-waivable.

In *Yash Raj Films v Chapter 25 Bar* (2023), the Calcutta High Court barred a producer from licensing rights after having assigned them to a society.²³ The Court interpreted the assignment as exclusive and enforceable only through the society.

These rulings reflect a convergence between statutory interpretation and equitable author protections—validating the role of societies while imposing accountability.

¹⁹ *Indian Performing Right Society Ltd v Aditya Pandey* (2012) 51 PTC 277 (Del HC).

²⁰ *Novex Communications Pvt Ltd v Trade Wings Hotels Ltd* (2019) Comm IP Suit (L) No. 251 of 2018 (Bom HC).

²¹ *Indian Performing Rights Society Ltd v Rajasthan Patrika Pvt Ltd* (Bom HC, 2023) (unreported).

²² *Vodafone Idea Ltd v Saregama India Ltd and Indian Performing Right Society* APO 131 of 2024 (Cal HC)

²³ *Yash Raj Films v Chapter 25 Bar and Restaurant* CS/233/2023 (Cal HC).

Table of Cases

| Case Name | Citation |
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| <i>Indian Performing Right Society Ltd v Eastern India Motion Pictures Association</i> | AIR 1977 SC 1443 |
| <i>Indian Performing Right Society Ltd v Aditya Pandey</i> | (2012) 51 PTC 277 (Del HC) |
| <i>Indian Performing Rights Society Ltd v Rajasthan Patrika Pvt Ltd</i> | (Bom HC, 2023) (unreported) |
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| <i>Yash Raj Films v Chapter 25 Bar and Restaurant</i> | CS/233/2023 (Cal HC) |

7. Comparative Legal Analysis**European Union**

The EU's Collective Rights Management (CRM) Directive 2014/26/EU codifies high standards for transparency, internal governance, rightholder participation, and dispute resolution in collective societies.²⁴ Articles 5–9 mandate that CMOs provide regular reporting, equitable distribution, and member voting rights. India's post-2012 legal reforms show conceptual alignment but lack the EU's institutional infrastructure for oversight and sanction.

²⁴ Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market.

United Kingdom

UK law under the Copyright, Designs and Patents Act 1988 permits CMOs like PRS for Music to enforce performance rights. In *PRS for Music Ltd v Qatar Airways* (2020), the UK High Court upheld international royalty claims, demonstrating the power of collective management across borders.²⁵ Indian courts have begun recognising similar extraterritorial licensing obligations, especially in the digital context.

United States

In the US, copyright societies like ASCAP and BMI are subject to DOJ consent decrees, requiring judicial oversight of licensing terms and dispute resolution.²⁶ India lacks such institutional oversight, making courts the only check on excessive royalty demands or mismanagement.

Table of Legislation

| Statute / Regulation | Provision / Citation |
|--|---|
| Copyright Act 1957 (India) | Sections 17(b), 17(c), 18, 30, 33 |
| Copyright (Amendment) Act 2012 (India) | Provisos to Section 18 |
| Copyright Rules 2013 (India) | Rules 44–55 |
| Directive 2014/26/EU (EU CRM Directive) | Articles 5–9 |
| Copyright, Designs and Patents Act 1988 (UK) | General Reference |
| US Copyright Law (Title 17, USC) | Section 106 (performance rights) |
| DOJ Consent Decree (US) | <i>United States v ASCAP</i> , Civil Action No. 13–95 |

8. Conclusion

Judicial interpretation of copyright societies in India has evolved from a narrow, producer-centric perspective in the *IPRS v EIMPA* era to a more balanced, author-protective framework in the aftermath of the 2012 amendments. Courts have reaffirmed the role of copyright societies

²⁵ *PRS for Music Ltd v Qatar Airways Group QCSC* [2020] EWHC 2512 (Ch).

²⁶ *United States v ASCAP*, Civil Action No. 13–95 (S.D.N.Y. 1941) (Consent Decree, as amended).

as fiduciary institutions, reinforced procedural compliance under Section 33, and protected the inalienable rights of authors under Section 18.

However, doctrinal inconsistencies remain—particularly in the interpretation of Section 30 versus 33, and in defining the scope of licensing "as a business." These inconsistencies hinder legal predictability and undermine collective licensing efficiency.

There is an urgent need for either a Supreme Court ruling harmonising the conflicting High Court judgments or a legislative clarification that balances individual ownership rights with collective licensing regulation. Only then can copyright societies function as truly accountable custodians of authorial rights in India's evolving creative economy.

