$~7.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 11164/2018

JUSTICE FOR RIGHTS FOUNDATION ..... Petitioner
Through: Mr.Harpreet Singh Hora, Adv.

Versus

UNION OF INDIA ..... Respondent
Through: Mr.Vikram Jetly, CGSC for R-1(i) to (iii)/UOI.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

O R D E R

% 08.02.2019

1. This public interest litigation has been filed with prayers which read as under:-

> "1. Frame guidelines in order to regulate the said online platforms and contents broadcasted on the online platforms,
>
> Or in the alternative;
>
> 2. Issue a writ/order/direction in the nature of writ of mandamus or any other writ/order/direction in the similar nature to the Respondents to frame legal provisions/guidelines in order to regulate the said online platforms and contents broadcasted on the online platforms, and;
>
> 3. Direct the respondents to pass necessary directions to all online platforms to remove legally restricted contents with immediate effect, and;
>
> 4. Pass such other and further orders as the Hon'ble Court

may deem fit and proper in the facts and circumstances of this case. ”

2. Primarily, it is the grievance of the petitioner that there are no guidelines to regulate the contents which are broadcast on the online platform by establishments or organizations like *Netflix, Amazon Prime Video* etc., thereafter, they now seek a mandamus to the respondents to bring into place regulation to control the contents of the broadcast made by these organizations on the online platform.

3. On notice being issued, the Ministry of Information and Broadcasting have filed a detailed affidavit. It is their contention that the online platform are not required to obtain any license from the Ministry of Information or Broadcasting for displaying their contents and the same is not regulated by the said Ministry.

4. It is further stated that the Ministry of Electronics and Information Technology has informed that they do not regulate the content on internet and there is no provision for regulating or licensing for an organization or establishment for putting up content on the internet. However, it is stated that the provisions of the Information and Technology Act, 2000 are applicable and the concerned statutory authority exercising jurisdiction under the said Act can take action by virtue of the powers available to them under Section 69 of the Act which includes direction for interception, monitoring or decryption of information, blocking of content etc. It is further stated that under Section 66A punishments have been provided for sending offensive messages through communication service etc. Punishments are also provided for publishing or transmitting obscene

material in any electronic form under Section 67. Section 67A prescribes punishment for publishing or transmitting of material containing sexually explicit act, etc. in electronic form. Section 67B further provides for punishment for publishing or transmitting material depicting children in a bad taste and further power is conferred under Section 68 to the Controller to give directions in such cases.

5. Accordingly, it is stated that no general power for regulation or material in the internet platform is available. But if the internet platform is misused for carrying information or material which are not permissible under law then the provisions of the Information Technology Act provides for deterrent action to be taken and as and when complaints are received, the statutory competent authority takes action in the matter.

6. Keeping in view the aforesaid, namely, the provisions of the Information and Technology Act and the Rules framed thereunder and, particularly, the provision provided in the Sections as detailed hereinabove, we are of the considered view that in a public interest litigation, this Court cannot issue a mandamus for framing general guidelines or provisions when there are stringent provisions already in place under the Information and Technology Act. In case the petitioner feels that any of the contents exhibited or transmitted by the organizations detailed in the writ petition violates the statutory provisions of the Information and Technology Act or the Rule and contains prohibitory material as is detailed therein, the petitioner can very well make a complaint under the aforesaid provision to the statutory authority and we are hopeful that the authorities shall look into the matter.

7. In the facts and circumstances of the case, we see no reason to issue any mandamus for bringing into place any guidelines or statutory regulation for the said purpose when the Information and Technology Act itself provide for enough procedural safeguards for taking action in the event of any prohibited act being undertaken by the broadcasters or organizations in the internet/online platform.

8. The writ petition is, accordingly, dismissed.

CHIEF JUSTICE

V. KAMESWAR RAO, J

FEBRUARY 08, 2019
'anb'