

Right To Internet-: Fundamental Right

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ABSTRACT

In today's time usage of internet is most controversial topic where some think it's the best innovation done by mankind while other thinks it is a total time waste. For most of the people it is basic requirement in a day. Access to internet has made life much easier and faster. People can connect to their family members anywhere around the world in very simple and easy manner. Everything is now available on fingertips from newspaper to grocery shopping or even medicines all of them are just one click away.

While for some people it is so easy to have access on internet while there are other people who struggles to have access to internet.

In 2019 The Supreme Court has declared **access to internet a fundamental right of India.**

It was held that '**Right to Internet Access**' as a fundamental right. The court said access to internet becomes the part of right to education as well as right to privacy under Article 21 of the Constitution of India.

Indian constitution Article 19 (1)(a) states the right to freedom of speech and expression as a fundamental right for all citizens. The Supreme Court has on many occasions expanded the scope of the right to freedom of speech and expression.

In reference to the case **Faheema Shirin vs State of Kerela 2019**, A 19-year-old college student in Kerala was expelled from her hostel for refusing to submit her mobile phone between 6 pm to 10 pm. She fought for her way legally against the hostel rule she argued that the hostel rule infringed her fundamental right to freedom of expression, right to privacy and right to education. As mobile phones are not only use for entertainment they are used for academics like preparation of college assignment or even research paper.

Aim of research paper is to study difficulties faced by citizen for implementation of Access to Internet as fundamental Right in reference to Jammu and Kashmir, and Faheema Shirin Case.

Research Methodology - The nature of the study is analytical and expository. The content has been collected from various sources like text books and articles.

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I. INTRODUCTION

Is access to the internet is basic human right? Well, Internet and mobile phone has become basic requirement of individuals nowadays. These are such things that humans cannot function without anymore. They have made our life occupied and busy. The internet is being used for every big and small task now whether to find a location or to book an appointment. The world is on fingertips of human because of internet, everything is so easy and fast. The Internet has basically made our lives comfortable and more convenient.

But excessive use of everything is dangerous. Likewise excessive use of internet is dangerous too. Now after the evolution of internet there is no human interaction among people left because of their busy life schedules. Whenever people have free time they start using their mobile phone/tabs/laptop or any other technical gadget which has internet. People are connected to each other but only in virtual world not in real life.

Yet there are some people who think it is the best innovation done by mankind. The world has become smaller place to live because of internet. Now anyone can communicate with their beloved ones who live oceans away, as everything is so quick and convenient that is on our fingertips. Video call, sharing text, pictures, and emotions everything is done on internet.

Internet also offers us various modes of entertainment such as we can now watch our favourite shows, movies online. We can also do grocery shopping and other household shopping online.¹

Since the internet is been launched in 1960s it has been rapidly increasing number of users on per minute basis. The internet has covered unbelievable aspect of modern lifestyle, its quick and steady speed has made possible for people to gain resources at a much cheaper cost. People can now easily exchange their ideas and thoughts in much faster and convenient manner. The most trending internet network Facebook, is known as world famous online social

¹ Evaluating Internet Research Sources Robert Harris

networking site. It has more than 200million active users, mostly of age 25-35years. The site was created to stay updated with friends and family. It allows a person to share their photos, videos, text, ideas. It even allows to share the location. There are many other internet sites such as instagram, whatsapp, wechatt and others which are actively used by people around the world.²

India has around 451 million monthly active internet users at end of financial year 2019³, and has become 2nd highest internet using country after China. Nearly about 2/3rd of the population has access to the internet. Mostly active internet users are from urban area. Whereas in rural India, out of 10 people only 2 people have access to the internet.

In today's time, no development is possible without digitalisation. Access to internet has become most basic right for every individual.

In year 2016, UNHRC issued a declaration stating internet access is the basic right. They also said right to internet should be made a fundamental right. Similarly few years ago they demanded for right to education as fundamental right.

In India there have been around 400 internet shutdowns. Among which Jammu and Kashmir internet shutdown has been recorded as longest shutdown that is for 210 days. The shutdown of internet was commenced on 5th august 2019 section 144 was imposed in Jammu and Kashmir that restricted the unlawful assembly of more than four people in a particular area. The government declared the revocation of Article 370 of the Indian constitution which gave J&K a special status within the Indian union. The government decided to divide the state into two Union Territories that is Ladakh and J&K by passing the Jammu and Kashmir Reorganization Act 2019. After the bill was passed the internet of J&K was shutdown for security reasons.

Thousands of people started protesting against the decision of government seeking restoration of internet services. As internet in today's time plays a crucial role in everyone's life.⁴

STATEMENT OF PROBLEM

Internet is most essential requirement of human beings in today's time. Gadgets having internet are required for all day to day task from reading newspaper to ordering grocery internet is required. But there is large of population who do not have access to the internet. Specially the population living in rural area do not have idea of internet technology used in urban area like WIFI, Dongle, or any other schemes of Jio, Airtel or any other network. They lack the knowledge about it. Simply there is lack of awareness about the internet. Therefore the Internet is our basic right and every individual deserve to exercise it without any hindrances.

OBJECTIVE

Access to internet is our fundamental right and should be exercised by all without any hindrances. In this paper i will be covering topics-

1. Pros and Cons of internet
2. Internet access and International law
3. Laws in India for Regulation of Internet
4. Important judgements

SCOPE

The scope of my paper is to highlight the importance of internet though the case of Faheema Shirin v/s State of Kerala This case is the base for highlighting necessity of right to internet for an individual. After the court order, right to internet was consider as fundamental right. As internet is most essential requirement of humans in today's time

RESEARCH METHODOLOGY

The nature of the study is analytical and expository. The content has been collected from various sources like text book law relating Constituion of India, Indian Penal Code. I also collected data from various articles like Future internet: The Internet of Things by Lu Tan ; Neng Wang, Designing Business Models for the Internet of Things M. Westerlund (Mika), Leminen, Seppo and Rajahonka, Mervi

²<https://academic.oup.com/hrlr/article-abstract/14/2/175/615750?redirectedFrom=fulltext>

³<https://economictimes.indiatimes.com/tech/internet/india-has-second-highest-number-of-internet-users-after-china-report/articleshow/71311705.cms>

⁴<https://www.ijme.in/wp-content/uploads/2019/10/01.EDITORIAL-1.pdf>

II. PROS AND CONS OF INTERNET

Internet is the most controversial topic in today's time. Where some of the people think that internet destroys human interaction and real-life human relationships. While other people think it is the best innovation done by mankind which makes human interaction much more convenient and much faster. Internet has made life much easier as people can communicate and interact with each other anytime from any part of the world. People can stay connected to their families and loved ones no matter how much far they are from each other.⁵

As the coin has two sides, we can say even internet has two sides that are positive and negative. Positive side when used for gaining knowledge and learning new things, enhancing self-being,

Internet is a platform that helps people in connecting and in developing networks with each other worldwide. Despite having such unique advantages of internet it is considered to be one of the most dangerous elements of society. As overuse of anything is harmful. If accounts created are not monitored then it can lead to big trouble such as infringement of privacy, hacking of accounts, or even cyber bullying. That can cause many health-related issues like anxiety, fear pressure, or even mental health diseases can be started.⁶

Internet sites are often used by all age group people whether say a toddler watching cartoons on youtube or an adult making TikTok videos.

But when anything is overused it comes with a cost.

2.1 PROS OF INTERNET SITES

Helps in staying connected

As there are numerous people who are living separate from each other due to education or working environment or any other reason. While these internet sites help in staying in touch with each other from any part of the world and at any time. People upload their personal family pictures on Facebook or Instagram their friends then comment, like that is how connection stays in touch.

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- **Gaining knowledge**

Several people use these platforms to increase their knowledge in education, cooking, fitness, or even beauty. Many influencers and vloggers share their hacks and help the general public to seek advantage of them. Even many institutes or coaching classes teach online where people can watch their sessions and gain knowledge.⁸

- **Low-cost marketing**

Marketing is a very tough job in traditional form as a large number of audience is not present, people have to do tedious working hours for the search of them but As internet doesn't require much efforts only a good internet connection and good applications and have a large number of active users. Where only by posting a picture or video can go viral on the internet.

Many businessmen use these sites to make people aware of the brands by advertisements, articles, blogs. Plus these sites are cost-effective and energy effective.

- **Track on regular updates**

Being active on internet sites helps to stay updated on the latest news, technology, laws, etc. It helps to keep a track of the easy manner.

- **Promotion and collaboration**

As internet provides a large number of audiences at a low cost, the marketers approach the influencers to promote their products to the audience; this type of system is called collaboration.

Where influencers receive products from marketers and promote it to their audience. Followers then buy these products as trial purposes due to benefits claim by their influencers.

- **No loneliness**

As internet is a very simple and easy site to be accessed on by any generation person so people find their pass time to scroll to their Instagram feeds or watch youtube videos or any other series. By this time get easily passed away and a person never feels bored or alone.

⁵Future internet: The Internet of Things by Lu Tan ; Neng Wang

⁶<https://www.pewresearch.org/internet/2018/04/17/concerns-about-the-future-of-peoples-well-being/>

⁷<https://www.nap.edu/read/4940/chapter/10>

⁸<https://www.hazeldenbettyford.org/articles/fcd/teen-technology-addiction>

- **Useful data available**

There are several number of sites available on the internet with the great research work done by researchers. The most search engine used is google for any information required at any point of time and anywhere.

- **Useful for marketers**

As internet is a low-cost market, it also enables a consumer to write feedback of the product they have purchased. Due to which the manufacturer of the product gets to know whether his product is being favored or not. He even gets to know if there is anything which he is lacking that can be fulfilled according to the consumers requirement.

2.2 CONS OF INTERNET

- **No personal interaction left**

Due to the internet sites available people are now more active on them rather than personally meeting each other. They are busy watching some webseries or playing games or even reading online.

They do not have time to meet their close ones because of their busy schedules and working environment.

- **Time consuming**

These internet sites are so addictive that if a person just open his/her Facebook or Instagram he keeps on scrolling down viewing other friends profile the time gets vanish away.

Even if a person starts watching a web series on any of the platform time simply gets flown away as each episode is for 30 or 40mins.

- **False information present**

There are numerous sites available on internet and there is no restriction on opening new. People post their content openly with any fear and it gets circulated easily because of the large audience present. For example false information circulated on WhatsApp.

So it is always advised to read guidelines from an authentic source that has some reorganization.

- **Negative feedbacks**

As internet is a site where a large number of audiences are present and everybody has the freedom to post anything. Some of them misuse it and post comments which are either to defame a person or with the intention to cause hurt. Just because people are sitting behind the screen that doesn't mean they can type anything they want to.

- **Rapidly changing trends**

Internet sites trend change even sooner than weather changes itself. As there are numerous of people using these sites they keep up coming up with new trends to stay in popularity mostly happen in industries like fashion, web series, makeup or games, etc.

- **No family connection left**

As people are busy on their mobile phones using their internetaccounts they do not have time to communicate with their family members. But ironically they are connected to each other through internet as a medium.

- **Misleading products available**

There are several marketers and their influencers who are promoting products with its false information to earn money through sales. Not all the things said by them are true about the product for example sale of fairness creams in India. Every marketer knows brown skin tone problems they intentionally sell their products with false advertisements and earn profits.

III. THE INTERNET-: ACCESS AND INTERNATIONAL LAW

The Internet is wide pool of information and services access by individual according to their taste and preferences. The Internet comprises of several codes, conventions, software and programming prepared by IT experts. Internet is now controlling the minds of an human, for every small and little thing people has started using their gadget with updated technology and high speed of internet. For example if an individual needs to arrange medications he/she will search for close by pharmacy store, or if an individual need contact someone else he/she will look on online media destinations. Even if a person wants to order grocery or any other

household item he/she will browse internet. Likewise we can say if a person has access to internet then for him everything is available on internet.⁹

In today's time internet access has become a basic minimum requirement for social and economic participation. It can also be considered as a necessity of modern living as everyone is socially active on their online accounts. The internet has become a source of data available. Individuals lacking access have become socially disadvantaged as they are unable to obtain any information updated by others, they are also unable to communicate with other people.¹⁰

Despite the fact according to the statistics international internet users recorded are more than 3 million, yet there are still 4.3 million people¹¹ who do not have access to the internet neither have any idea about internet uses. Surprisingly 90% of people without access come from developing countries.¹² They have been backward not only in infrastructures but also in communicating technology; they are far behind from the developing countries. Thus these results in international information gap, many organisations such as UN Human Rights Council promotes access to the internet for development of an individual and of country. They advise every country should make access to the internet to every citizen in free or an economical manner.

However there are many other people who do not have access to the internet. It is either because of the location they reside in or because of the political interventions.

3.1 There are certain laws relating to the internet

Internet is the basic requirement of an individual in today's time¹³. It plays a crucial role in connecting people not only nearby but around the world and also help in developing relationships.¹⁴

To provide the advantage of internet to every individual UN declared internet as basic right in 2016. In Universal Declaration of Human Rights (UDHR) an addition was made in **article 19**¹⁵ which states everyone has right to freedom of expression and opinion which means this right includes freedom of opinions and ideas without any interference from any media. Later **section 32** adds the promotion, protection and enjoyment of human rights on internet.¹⁶

IV. LAWS IN INDIA FOR INTERNET REGULATION

4.1 IN CONTEXT WITH INFORMATION TECHNOLOGY ACT

➤ Section 43

Section prescribes if any person without seeking permission of the owner or any person who is in charge of a computer, computer system or network of computer

- accesses or secures access to such computer
 - he downloads or copies any data from computer
 - Or puts introduces a virus to the computer or system
 - Causes to damage or damage any data or program on computer
 - disrupts or disrupts any computer,
 - tamper or manipulate data available on computer
 - destroy, steal, alter or delete any information from computer with intention of causing damage
- such person shall be held liable to pay compensation to the affected person.¹⁷

For example in case of **RELIANCE JIO DATA LEAK**¹⁸

The owner of Reliance is Mr. Mukesh Ambani. He registered an FIR against the computer course dropout student of Rajasthan in Mumbai police station. The FIR was lodged for the issue of data theft of company

⁹Business models for the Internet of Things

¹⁰<https://ir.library.carleton.ca/pub/12193>

¹¹<https://www.businessofapps.com/data/twitch-statistics/>

¹²Designing Business Models for the Internet of Things M. Westerlund (Mika), Leminen, Seppo and Rajahonka, Mervi

¹³ <https://www.bbvaopenmind.com/en/articles/internet-changed-everyday-life/>

¹⁴<https://www.nap.edu/read/4940/chapter/10>

¹⁵<https://www.brookings.edu/blog/techtank/2016/11/07/the-internet-as-a-human-right/#:~:text=Specifically%2C%20an%20addition%20was%20made,ideas%20through%20any%20media%20and>

¹⁶<https://www.un.org/en/universal-declaration-human-rights/>

¹⁷Section 43 of Information Technology Act, 2000

¹⁸<https://www.hindustantimes.com/india-news/reliance-jio-data-leak-computer-course-dropout-arrested-from-rajasthan-will-soon-be-brought-to-mumbai/story-iwPODWwaDLoo5Tv55fLIFJ.html>

personal details in the form of information received by falsely making downloads copies or extracts any data from the computer base.

All the JIO Telecom company data was accessed by dropout student of Rajasthan and he leaked the information about JIO customers on website Magicapk.com. Through which he could make money out of it. It was a serious crime committed by dropout student on which the strict charges shall be imposed. As Reliance Jio is a very well known and big company which has more than 1million subscribers. All the data of the customers were at stake.

Therefore the immediate and strict action was taken by the police of Maharashtra detained dropout student of Rajasthan for leaking data of about 1million customers of JIO telecom services.¹⁹

➤ **Section 66- OFFENCES RELATED COMPUTER**

This section prescribes if any person, by means of fraudulent activity ordishonestly perform any act as per mention in **section 43**, the he shall be punished with imprisonment for up to a term of three years or even with fine that may exceed up to five lakh rupees or even with both.²⁰

For example in the case of -

SANSKAR MARATHE v/s THE STATE OF MAHARASHTRA²¹

Aseem Trivedi is a Free speech campaigner in Mumbai. He was arrested by Mumbai police for showcasing cartoons of parliament on his website and Facebook page. The cartoon displayed was about mocked parliament and corruption in high places.

The caricatures created were then shared on other social media which went viral. Trivedi's cartoons depicted the parliament as a giant commode and national emblem was showed with wolves instead of lions.

He was punished for 2 weeks of imprisonment²²

4.2 IN CONTEXT WITH CONSTITUTION OF INDIA.

➤ **Article 19(1)(a)**

Article states that all citizens of India have the right to freedom of speech and expression.²³ It includes a citizen of India has the right to express his or her opinion, views on any of the issue irrespective of their caste, culture or religion.

They can be expressed in any form through any media like words by mouth, written statement, picture, movies, or any act. Etc.

However **Article 19(2)** of the Constitution provides to every citizen that freedom of speech and expression is not an absolute right. It has "reasonable restrictions" that may be imposed on the exercise of the right.²⁴

4.3 IN CONTEXT WITH INDIAN PENAL CODE

➤ **Section 499 of IPC – "DEFAMATION"**

As per section prescribe defamation means any statement which is intentionally passed for causing harm to a person by using harsh words, sign, symbol, or any visible representation²⁵.

Defamation falls into two categories:

1. "Libel" – A defamatory statement that is published in a written form.
2. "Slander" – A defamatory statement that is said in a verbal form.

Similarly, any act done with the intention of causing harm to another person by using harsh words, signs, symbols on an online platform leads to be called **cyber defamation or online defamation**.²⁶

For example:- Publishing of a defamatory statement on Facebook, Instagram, Twitter, or any other online platform or even by sending emails containing defamatory content with the intention to defame another person leads to cyber defamation.

¹⁹<http://roundup.manupatra.in/asp/tagsearch.aspx?tag=IL&FS%20Cases>

²⁰Section 66 of Information Technology Act, 2000

²¹<https://indiankanoon.org/doc/57916643/>

²²<https://www.theguardian.com/world/2012/sep/10/indian-cartoonist-jailed-sedition>

²³Article 19(1)(a) Constitution Of India

²⁴Article 19(2) Constitution Of India

²⁵Section 499 Indian Penal Code

²⁶<https://www.lexology.com/library/detail.aspx?g=d3075f4d-afb5-4920-bf59-26cf5d054ab8>

➤ **Section 469 of IPC- CYBER DEFAMATION**

Says that whoever commits forgery, with an intension to cause harm to the reputation of another party through document or electronic record. Shall be punished for fine or even imprisonment term which may extend to three years.²⁷

4.4 CYBER DEFAMATION AND PLATFORMS OF INTERNET

As by each passing day, social media users are rapidly increasing, which is giving rise to new forms of crime. People use social media platforms to defame another person out of rivalry or ego. People sitting behind the digit screens comment harsh words, give signs or symbols with wrong intentions of causing harm.

Person performing such activities are sacred of no one. They presume they have freedom speech as provided in article 19(1)(a) of the constitution of India, so they can write or say anything they wish too.

There was a famous case of “**SWAMI RAMDEV v/s JUGGERNAUT BOOKS**”²⁸

Facts of the case were - Ramdev, the Plaintiff who is a public figure and yoga guru in India. The book was written on Ramdev with titled ‘Godman to Tycoon – the Untold Story of Baba Ramdev’ by author Ms. Priyanka Pathak Narain. There were certain part of the book which were defamatory. In 2018 court held publishers can sell books if they remove defamatory parts of Ramdev. But publisher challenged the order in the supreme court. Then a video of a summary of the book was published online on platform of face, Instagram, youtube, and many more which went viral. The video contained defamatory parts as mention in the book were highlighted

In 2019 the Court passed an interim order for an injunction, by directing the Defendants to remove or disable content only in the domestic boundaries of a country which are offending URLs and web links. Then none of the Defendants had any objection to takedown the content available on sites in India but the objections was raised globally to take down content²⁹

V. IMPORTANT JUDGEMENTS

5.1 FAHEEMA SHIRIN V/S STATE OF KERALA

Facts of the case are as follow –

The writ petition was filed by 3rd semester BA student against rules and regulation of the hostel. She was staying in a college hostel which is affiliated to University of Calicut. The rule of the hostel was people staying in hostel were not allowed to use their mobile phones after 10pm to 6am and undergraduates were not even allowed to use their laptops or any other gadget. Later, restriction on usage of mobile phone was changed that is 6pm to 6am instead it was 10pm to 6am. Petitioner with other friends of her went to the Deputy warden for explaining the issues and inconvenience faced by them due to changes made by authorities but warden did not respond. Though students received whatsapp message from warden stating if anyone does not abide the rules would have to vacant the hostel. The petitioner approached the principal requesting to relax restrictions imposed by submitting official letter. Therefore the letter submitted by her in writing effect that she was not willing to abide by the new rules and regulations made by hostel authorities. After this her parents were called to meet principal and were informed she had to vacant the hostel as she does not abide by the new rules and regulations. The hostel authorities issued a memo stating that she had to vacant the hostel immediately and meeting was held with other students were the authorities informed about the action taken against her and asked rest of the students to give in writing that they abide by all the new rules and regulations of hostel. Petitioner then submitted a leave letter as it was very difficult for her to travel 150km each day to attend the classes. But when she reached the hostel to take her belongings the room was locked by authorities and did not allow her to take anything from her room.³⁰

ISSUE – whether the restrictions imposed by the hostel authorities on usage of mobile phones has infringed the fundamental rights of the petitioner?

²⁷Section 469 Indian Penal Code

²⁸<https://indiankanoon.org/doc/112277185/>

²⁹<https://www.businesstoday.in/current/economy-politics/sc-issues-notice-to-baba-ramdev-on-book-publisher-plea-against-hc-order/story/296021.html>

³⁰<https://punemirror.indiatimes.com/news/india/right-to-access-internet-forms-a-part-of-right-to-education-kerala-high-court/articleshow/71206109.cms>

Arguments of Respondent

1. The changes in duration for use of mobile were done on the request of parents. The petitioner was admitted in hostel after signing the application which states she will be abiding all the rules of hostel and obeys all the directions of the hostel authorities.
2. On receiving a lot of complaints regarding excessive use of mobile phones from parents in the meeting conducted on 19.06.2019 were decided unanimously to impose restrictions on the use of mobile phones for students. In order to see students are not wasting their time but only utilizing for study purposes. The decision later on was communicated to all students through warden.
3. Petitioner father agreed to the new rules made by authorities and he didn't have any objection if his daughter used the mobile phone. Warden complaint to principal regarding humiliation she faced by petitioner father. Her father came to the hostel and shouted at the warden in front of all the students, parents and other faculty members for banning the use of mobile phone in the modern time. Despite of this entire warden did not take any action against him. It was already informed to the parents that she can either follow all the rules of hostel or she can leave the hostel if not willing to abide rules made by the hostel. Petitioner parents were present at the meeting and they misbehaved with vice present yet no action was taken against them. Moreover, in the meeting it was discussed to follow all the new rules and they agreed at that moment, now they suddenly cannot object the rule made by senior authorities for the wellbeing of the students.
4. It is stated that restriction is imposed on boys also in hostel for usage of mobile phone which is between 4.30pm to 6. 30pm and 6am to 9am except on Sundays it is from 10pm.³¹
5. According to the warden college library consist of 30,000 books which cover all the aspects and needs of student. The library is full-fledged and full equipped made considering all the needs of students. Therefore, to acquire knowledge through internet alone cannot be said as reasonable point. It is further stated in case if the petitioner still wants to gain extra knowledge from the source available, she can use laptop for which there is no restriction³².
6. In *Sojan Francis vs MG University 2003*, *Unniraja vs Principal Medical College 1983* etc and others it was stated that supreme authority can control and enforce discipline in educational institution they are entitled to take suitable measures to maintain decorum in the institution. It is the duty of faculty and other staff members to ensure there is proper discipline and all are able to achieve excellence in education.

Arguments of petitioner

1. Petitioner or her parents were never informed about meeting or PTA meeting before the new rule was implemented on the restriction on mobile phone.
2. There was discrimination done by hostel authorities as restriction on usage of mobile phone was only done for girls not in boys' hostel this amounts to the gender discrimination which violates clause 5 of UGC. UGC stated in *Promotion of Equity in Higher Educational Institutions Regulations 2012* that college authorities can take appropriate steps to safeguard the interest of students without causing any discrimination on basis of gender, caste, religion or language.
3. There was no such act done by petitioner or any other student that might have cause indiscipline action. The respondents have stated that usage of mobile phone has never caused any disturbance to anyone.
4. At this time when government is introducing the possibility of digital learning even for school students by printing QR Code in the text books which enables students to scan the code and read about particular topic in detail for better understanding. Even providing extra videos that can be watched on smart phones or tablets then why are such restrictions imposed by college authorities. As by not giving students this right, college authorities are depriving her from access of knowledge which is available on internet as a result it is affecting the quality of education received.
5. UGC has introduced (*Credit Framework for online learning courses through SWAYAM*) it is advisable to Universities to identify courses where the credits can be transferred to the academic record. But such restriction imposed is depriving student's opportunity to learn course of SWAYAM platform because of unavailability of internet facility in hostel.
6. It is claimed that right to the access internet forms a part of freedom of speech and expression guaranteed under Article 19(1)(a) and the restrictions imposed by college authorities does not come within reasonable restrictions covered under Article 19(2) of the Constitution Article 19(1)(a) states that all the citizens of India have right to freedom of speech and expression.

³¹<https://indiankanoon.org/doc/188439981/>

³²<https://www.newindianexpress.com/states/kerala/2019/sep/20/right-to-access-internet-part-of-rte-kerala-hc-permits-students-to-use-mobiles-in-college-hostel-2036111.html>

And Article 19(2) states that government is been authorized to impose by laws, restrictions upon freedom of speech and expression in the interest of public order.³³

7. In the ordinances of Calicut University, it provides residence for students in clause 7, students who are not residing with their respective parents are required to reside in any of the hostel maintained by University in clause 4. Therefore, going by the provisions provided by University students are bound to stay in hostel that is affiliated by University themselves. Students coming from far away does not have any other option rather than to stay in the hostel provided by University.

8. Petitioner also relied on the judgment passed by apex in case of anujgarg vs hostel Association of India, Shreya Singhal vs Union of India, PUCL vs union of India and etc for the restrictions imposed by authorities are illegal and violates the fundamental right to freedom of speech and expression article 19(1)a, right to privacy guaranteed under article 21, Right to education as well as right to the property under Article 300A of the Constitution of India. As being an adult, nobody is allowed to violates the freedom of usage of mobile phone. The modification of rules without even giving prior notice and stating parental concern violates right to the freedom, right to the privacy, and infringes personal autonomy which is guaranteed by the Constitution of India.

Judgement

- Though it is true that principal of the college is the supreme authority to enforce discipline and there can be no dispute regarding the rules framed, they are to be obeyed by all the students and teachers. It is the duty of educational institution to guide the students and help to achieve Excellence. The rules should be modified in accordance with maintaining decorum and updating with technology so that students can acquire best of material to gain knowledge from all the available sources. It is advised to authorities look after students if there is any disturbance and distraction caused on usage of mobile phone then the complaint should be registered immediately. The total restrictions on the use of mobile phone during study hours is absolutely unwarranted.

- The rules and regulations made by Supreme authority cannot be challenged but in this case the ban on usage of mobile phone from 6pm to 10pm and direction to submit their mobile phones to warrant is unreasonable. When it is already found such action taken by authority violates the right of freedom as well as privacy and will affect the further more studies and future of students who wants to acquire the knowledge and use for the betterment then such restriction imposed by authorities cannot be permitted to be enforced.³⁴

- While enforcing discipline it is also important to see positive aspects of mobile phone usage by students. The restrictions should have connection with the discipline and when there is nothing to show the connection between then there is act of indiscipline. No student shall be compelled to use mobile phone or not it is totally the discretion of student. That if they want to misuse the liberty given or to utilize it to the fullest to improve her quality of education.

- The only restriction that can be imposed is that they should not cause destruction to the other students, if done the authorities have liberty to take strict steps in order for their betterment. While exercising right to the privacy the person like petitioner should not invade the right to privacy of the other student residing in the hostel especially when sharing room together.

- At the any rate, parents do not have any right to shout at teachers or any other staff member of the college even if all the actions are not favourable to them. Such humiliation of the teachers in front of everyone or even in private is not expected from the educated parents. However, what is to be considered in the case is unreasonable about of restriction imposed by hostel authorities for which petitioner was expelled.

- The restrictions imposed are unreasonable and respondent shall re admit the petitioner without any further delay.³⁵

5.2 ANURADHA BHASIN V/S UNION OF INDIA

Facts of the case are as follows:-

It started from 5.8.2019 when President passed an order and modification in article 367 relating to interpretation of Jammu and Kashmir was done.

For people who came from outside were made to go back to their respective location, educational institutions and offices were shut until further notice. Section 144 Code Of Criminal Procedure was applied that is public gatherings were prohibited, mobile connectivity and landline services were shutdown until further orders.³⁶

³³<https://www.legalindia.com/tag/right-to-privacy/>

³⁴<https://thewire.in/health/kashmir-health-doctors-statement>

³⁵<http://www.legalservicesindia.com/law/article/1305/10/Right-To-Access-Internet-Is-Part-of-Right-To-Privacy-And-Right-To-Education-Kerala-HC>

Writ petition was filed by executive editor of the Kashmir times Srinagar edition Ms. Anuradha Bhasin, who argued that in today's time internet services are essential for modern press. The petitioner further stated print media will come to an end since there has been no printing done from 6.8.2019 She further that government did not provide valid reason for passing such order on suspension basis. The point of the contention was government needs to find balance between necessity to maintain national security and rights of the citizens. The restrictions were supposed to be imposed temporarily but its more than 100 days.

Another writ petition was filed by member of Parliament Mr Ghulam Nabi Azad whose argument was state cannot claim any advantage before the court for not producing orders. He included national emergency can only be imposed on handful cases, this case was not one of them hence there was no need of passing section 144 of crpc. His contention was not to restrict everyone but people of certain category who neglect peace.

The state must balance fundamental rights and maintain peace and safety of all the citizens. Imposing restrictions on internet not only affects right freedom on speech and expression but also freedom to carry on any trade, profession or occupation. However this petition was withdrawn later on.³⁷

Issues raised were as follows:-

1. Whether the freedom of speech and expression and freedom to practice any profession, occupation, trade or business over internet is part of fundamental right listed under constitution in Part III?
2. Whether freedom of press was violated due to Restrictions imposed ?
3. Whether Government actions of prohibiting the use of internet valid ?

Judgement

The supreme court held that freedom of speech and expression is integral part of Constitution in article 19(1)(a). Internet is one of the main source required to broadcast any information and freedom of speech and expression can be said as fundamental right under this article . Although government has right to impose restrictions as stated under article 19(2). That is reasonable restrictions can be imposed by government. Reasonable restrictions are limited to the interest such as sovereignty, integrity, security, friendly relations with other countries, public order, decency or morality. It include complete restrictions only in most appropriate cases.

Court declared internet is essential in today's life therefore to carry on business, profession, occupation or freedom of speech and expression on the internet is now part of fundamental right guaranteed under Part III of the Constitution.

Further, court held that prohibition to access the internet will only be in certain circumstances otherwise will be cease to exist. Such restrictions affect fundamental rights of the citizen which are granted under constitution. Therefore by looking into the matter court ordered to follow the test of proportionality, to see there is no kind of violation of natural justice is done.

The court did not remove the restrictions which were imposed on internet and movement of citizen however said freedom of speech and expression by including right to access the internet is essential part of the article which could only be restricted in case of national security.³⁸

Court did not provide immediate relief to the citizens aggrieved due to the conditions but laid down principles for future to prevent state abuse from power.

In today's time internet is tool for spreading information such as important news, articles and even important for two way conversation. Internet has become important part of life. In today's scenario when everything is shit down, internet connection plays the most vital role for all the people to stay connected, students all over the world are having online education even by staying at home, people around the world are working online to make money for their living.

Therefore in this situation internet plays an important role in everyone's life. Now it has become right in interpretation of freedom and expression under Part III of the Constitution.

Right to internet as fundamental right- After landmark judgement passed

There were three judgements passes by the court, which said internet is most essential requirement for todays time. Everything is operated online from students classes to business activities everything is done through online medium. However by looking at the scenario there were three important Judgements passed for the restoration of internet services and declaring internet as our fundamental right.

³⁶<https://globalfreedomofexpression.columbia.edu/cases/bhasin-v-union-of-india/>

³⁷<http://www.legalserviceindia.com/legal/article-3164-anuradha-bhasin-v-s-union-of-india.html>

³⁸<https://frontline.thehindu.com/dispatches/article30542427.ece>

First **Faheema Shirin R.K v/s State of Kerala**

In this case, students of hostel were not allowed to use their mobile phones from 6pm to 10am. Many students opposed for such rule made by authorities and filed a petition. Where court held that right to access internet is fundamental right along with right to privacy as mention in article 21 and right to education.³⁹

Second in case of **Anuradha Bhasin v/s Union of India**, the case was filed on 10th January. The case was filed to challenge the decision of government for ban of internet in Jammu and Kashmir that is from 5th august 2019. Here article 19 was been violated by restricting physical movement along with online communication restriction.⁴⁰

Supreme Court held that due to immediate threat or security concern a temporary ban on services is permissible but ban on internet of an indefinite time is not right. It was said the balance between national security and human right should be maintained.

After this judgement 2g internet services were allowed.

Third case was **Foundation of Media Professionals v/s Union of India**

Popularly known as 3g and 4g case. In this case the ban of 3g and 4g services of Jammu and Kashmir were challenged. Such ban violates right to education, right to Professions and right to health. Supreme Court issued directions to resume 4g services and a committee was setup. After many discussions finally internet services were resumed in limited areas as trial phrase.

VI. CONCLUSION

Internet is most essential requirement of humans in today's time. Everything is done online like students taking classes, people pursuing their business doing promotions, shoppers doing shopping through various online sites available and other entertainment experience available like games, movies, websites. Now we can say world is on fingertips of human because of internet, everything is so easy and fast. The Internet has basically made our lives comfortable and more convenient. But excessive use of everything is dangerous. Likewise excessive use of internet is dangerous too. Now after the evolution of internet there is no human interaction among people left because of their busy life schedules. Whenever people have free time they start using their mobile phone/tabs/laptop or any other technical gadget which has internet. People are connected to each other but only in virtual world not in real life.

Yet there are some people who think it is the best innovation done by mankind. The world has become smaller place to live because of internet. Now anyone can communicate with their beloved ones who live oceans away, as everything is so quick and convenient that is on our fingertips. Video call, sharing text, pictures, and emotions everything is done on internet. But sadly there were people who did not had access to the internet like wise before the case of Faheema Shirin v/s union of India internet was not recognized as Fundamental Right. But after the judgement of the case Kerala court held Internet is our Fundamental Right guaranteed to all the citizens under Article 19(1)(a) of the Indian Constitution. It was also stated reasonable restrictions can be imposed under Article 19(2) of the Indian Constitution. So that no state or authority can misuse the powers provided.

To declare right to internet three main judgement was passed by the court that is, in case Faheema Shirin case, Anuradha case and Foundation media professionals case.

After the internet was declared as fundamental right most of the people had internet, internet was restored in state of Jammu and Kashmir.

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