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WP-4503-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE ALPESH Y. KOGJE,
CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VIVEK RUSIA

ON THE 17th OF SEPTEMBER, 2026WRIT PETITION No. 4503 of 2026*ANMOL JAIN**Versus**UNION OF INDIA AND OTHERS*

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Appearance:

*Shri Deshhit Soubhri - Advocate and Shri Kaustubh Tiwari- Advocate
for the petitioner.*

*Shri Suyash Mohan Guru- Deputy Solicitor General for the
respondent/Union of India.*

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ORDER

Per. Justice Vivek Rusia

The petitioner has filed this present petition challenging the constitutional validity of the Rule 3(1)(b)(iv) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code), 2021, being ultra vires to Articles 14, 19(1)(a), 19(1)(g) and 21 of the Constitution of India.

2. The petitioner owns and operates a social media account under the name and style of memexnasha on social media platform known as Instagram of respondent no.4. According to the petitioner, he has thirty-nine thousand followers, which he acquired due to his sheer dint of hard work



since 2019. The petitioner is also claiming to be a part of the digital content-creator economy, and his social media account has become a substantial source of his livelihood.

3. The petitioner received two e-mails (Annexure P-2) from Instagram that his post has infringed copyrights of the complainant; hence, the same has been removed from the petitioner's social media account. The Instagram directed the petitioner to contact the complainant party in order to resolve the issue. On 06.07.2025, the content of the petitioner on Instagram dated 03.04.2025, 17.04.2025 and 24.04.2025 was removed by the respondent no.4. According to the petitioner, before such removal, no notice or opportunity of hearing was given by Instagram. The petitioner made a complaint on 25.07.2025 (Annexure P-4) that someone is misusing Instagram's copyright policy by making false complaints. In reply to it, the petitioner was directed to file his grievance in accordance with the mechanism provided by the respondent No. 4. The petitioner received an e-mail on 25.08.2025 from Instagram stating that the content posted by him dated 16.08.2025 has been removed from his social media account on the complaint made by a third party for violating the copyright policy.

4. The petitioner preferred an appeal against the said order of Instagram to suspend the petitioner's social media account. However, the petitioner made a request for reinstatement of his account by sending an e-mail dated 31.08.2025 (Annexure P-11).

5. The petitioner has filed this present petition challenging the constitutional validity of Rule 3(1)(b)(iv) of the Information Technology



(Intermediary Guidelines and Digital Media Ethics Code), 2021, which empowers the respondent no.4 to delete the post. According to the petitioner, the respondent no.4 being a private party is being entrusted with the task under Rule 3(1)(b)(iv) to regulate and determine patent, trademark, copyright or other proprietary rights and their infringement or violation, which is the jurisdiction of a court of law to adjudicate intellectual property rights. Hence, such a provision is liable to be declared unconstitutional being ultra vires to the Article 14 and 21 of Constitution of India. The petitioner is claiming right of freedom of free speech and expresssion; therefore, the action of the respondent suspending/deactivating petitioner's social media account are unlawful, arbitrary, erroneous and bad in law. The petitioner is also challenging the action of the respondent no.4 on the ground of violation of principle of natural justice as no opportunity of hearing was efforded before suspending or deactivating the petitioner's social media account.

6. We have heard arguments of learned counsel for the petitioner at length.

7. We do not find substance in the arguments of the petitioner in order to declare the Rule 3(1)(b)(iv) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code), 2021 to be unconstitutional. The respondent No. 4 comes under the definition of "intermediary" as defined in section 2(w) of Information Technology Act, 2000. Relevant section 2(w) is reproduced below:-

"2(w) "intermediary", with respect to any particular electronic records, means any person who on behalf of another person receives, stores or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers, internet service providers, web-hosting service providers, search engines, online payment sites, online-auction sites, online-market



places and cyber cafes."

8. If the petitioner has a grievance against the action of the respondent no.4, then the remedy is available under the provisions of the Information Technology Act. Chapter IX deals with the "Penalties, compensation and adjudication" and Chapter X provides remedy of Appeal to the Cyber Appellate Tribunal; therefore, the alleged action of the respondent no.4 can be examined if the remedy is availed under the aforesaid provisions.

9. So far, the constitutional validity of the Rule 3(1)(b)(iv) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code), 2021 is concerned; the same has been passed under the Information Technology Act, 2000. These Rules were notified by the Government of India under section 87 of the Information Technology Act, 2000. Part-II governs social media and online intermediaries. Part-III establishes an Ethics Code and Grievance Redressal for OTT platforms and digital news and current affairs content or publishers. These Rules provide a three-tier grievance redressal mechanism: first by publisher/platform via a Grievance Officer; second Self Regulating Body headed by a retired judge of the Supreme Court/High Court or an independent eminent person; and the third mechanism is administered by Ministry of Information and Broadcasting, including an Inter-Departmental Committee. Rule 3 provides that a social media intermediary shall observe due diligence while discharging its duties. Rule 3(1)(b) casts an obligation on the intermediary to inform its rules and regulations, privacy policy and user agreement to the user in English or any language and shall make reasonable efforts not to display, upload, modify, publish, transmit, store, update or share any information that belongs to



another person. There should be no infringement of any patent, trademark, copyright or other proprietary rights, or anything harmful to the child, impersonate another person etc. Section 3(1)(c) gives the right to terminate the access or usage rights of the users to the computer resource immediately or remove non-compliant information or both, as the case may be.

10. The respondent no.4 may be a private party, but comes under the definition of "intermediary" under section 2(w) of Information Technology Act; therefore, this intermediary has been given a responsibility to maintain due diligence in order to run a social media platform; therefore, under such due diligence, the authority has been given power to remove harmful content/post from its platform, if there is infringement of any patent, trademark, copyright or other proprietary right, posted in the Instagram run by respondent no.4, then the respondent no.4 certainly has a right to remove such post/content. Under Rule 3(2), there is provision of establishment of grievance redressal mechanism of intermediary, who shall be called Grievance Officer. The Grievance Officer shall acknowledge the complaint within twenty four hours and resolve such complaint within a period of 15 days from the date of its receipt. As per proviso the complaint in the nature of request for removal of information or communication link relating to clause (b) of sub rule (1) of rule 3, except sub-clauses (i), (iv) and (xi) shall be acted upon as expeditiously as possible and shall be resolved within seventy two hours of such reporting. There is a provision for appeal to the Grievance Appellate Committee under Rule 3A, any person who is aggrieved by a decision of the Grievance Officer or whose grievance is not resolved



within the period specified may prefer an appeal within a period of 30 days from the date of receipt of communication from the Grievance Officer. So enough safeguard has been given to the complainant as well as user to submit his grievance before the Grievance Officer and thereafter to the Appellate Committee; therefore, the provision cannot be said to be ultra vires. Once, by way of statutory enactment and Rules made thereunder, the respondent no.4 has been permitted to establish an online platform as an intermediary, then the authority has also been rightly given the right to manage and control the platform. Hence, we do not find any ground to interfere with the validity of Rule 3(1)(b)(iv) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code), 2021.

Accordingly, this writ petition is dismissed.

(ALPESH Y. KOGJE)
CHIEF JUSTICE

(VIVEK RUSIA)
JUDGE

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