

## National

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National



### Bid to block anti-India website affects users

By Sandeep Dikshit

NEW DELHI SEPT. 23. The Government's first attempt to block the website of an allegedly anti-India group has inconvenienced lakhs of Internet users who are questioning the utility, process and procedure relating to blocking.

While all Indian Internet Service Providers (ISPs) have agreed to comply with the Government's first-ever blocking directive taken under the Information Technology Act, the U.S.-based host of this website — Yahoo — has refused. As the ISPs lack the technical finesse to block one sub-group, they have blocked all Yahoo groups or URLs inconveniencing the users. This website, belonging to a militant group espousing the cause of Meghalaya's Khasi tribe, can still be accessed by ISPs outside India or those who have not yet complied with the directive.

Official sources today said that orders were issued by the Indian Computer Emergency Response Team (CERT-In) under the Department of Information Technology as the website "contained material against the Government of India and the State Government of Meghalaya". The absence of any explicit provision in the IT Act for blocking of websites was because this action was seen by civil society as amounting to censorship, they explained. In this case, the blocking was to ensure "balanced flow of information" and not censorship, they added.

The process of blocking is surrounded by several legal controversies, since the power to block itself does not exist under the IT Act. Through a notification in February this year, the Government designated CERT-In as the authority for blocking of websites. Another notification five months later listed the officials who can order blocking and the grounds under which this can be done. "The inherent sovereign power of the Government to block can hardly ever be denied. However, when the Government embarks upon the process of blocking, it is absolutely imperative that it must follow those procedures and norms that cause least discomfort or harm to the entire netizen community. This appears to be the first case where blocking of a particular website or sub-group has had the ramification of causing inconvenience to the

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netizens in the sense of depriving them of access to legal groups, other than the blocked URL," observes cyberlaw expert, Pawan Duggal.

"It is hoped that with the passage of time the Government does come up with appropriate norms and procedures that can create a smart balance between the requirements of the sovereign powers to block and the relative inconvenience, harm and anxiety caused to the netizen in terms of blocking of legitimate websites."

Mr. Duggal says that legally speaking; there are a couple of grey areas. The February notification setting up CERT-In has been issued under Section 67 and Section 88. Neither Section empowers the Government to create such an authority. Therefore, the constitution of CERT-In is of no legal significance and may not be upheld in a court of law. "I am not saying that the Government does not have the power at all to block or create CERT-In. However, surely the power does not lie in these provisions."

The Government may succeed in blocking some websites in some cases but "the problem is that this provision may be misused by political powers in the regime to silence political dissent, criticism and debate. The phenomenon of mirror sites and emerging technologies along with intelligent minds of netizens are likely to ensure that India's blocking adventure starts its march on a losing note."

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