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Supreme Court and Indian Cyberlaw-2015: A roundup

The Shreya Singhal judgment was historic this year as it upheld the power of government for interception and narrowed down the scope of intermediary liability

Pavan Duggal

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2015 was the year in which the historical judgment of the [Supreme Court](#) was delivered in the case of Shreya Singhal v/s Union of India. The Shreya Singhal judgment was historic this year primarily because of three things. Firstly, it struck down Section 66A of the Information Technology Act, 2000 as unconstitutional because the Supreme Court found that the parameters of Section 66A went against the Constitution of India.

It upheld the power of Government for interception and narrowed down the scope of intermediary liability and said that intermediaries will now act only on order of Court of law or on order of a Governmental agency. This judgement is definitely historical because it is the first major judgment which has interpreted the constitutional validity of the provisions of the Information Technology Act, 2000. It is also historical because Section 66A was tremendously misused in various cases and Supreme Court found the same to be in violation of peoples' fundamental rights. Post this judgment, there has been an increase in incidents of cyber bullying and targeting people on social media because somehow people get a feeling that the law has now been struck off, they have a license to defame.

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This judgment has strengthened the hands of the Government for interception. The challenges to the powers that were granted to the Government have been dismissed and the Government's power to act in the national interest has been reiterated.

The entire issue of intermediary liability has to be relooked primarily because of the unique nature of the Indian mobile web. A majority of Indian online users only access the Internet through their mobiles and intermediaries become data repositories and therefore there is a need to simplify procedures regarding access of data resident on the computer platforms of the intermediaries.

The ball is actually now in the hands of the Government to amend the Information Technology Act, 2000 to actually not just incorporate the concerns of stakeholders but also to ensure that law becomes a tool for facilitating m-commerce and e-commerce.

There is a need of coming up with distinct legal frameworks which are in sync with the Constitution and which can help to preserve public order in cyberspace.

The year 2015 was a remarkable year inasmuch as it saw how the Indian Courts were redefining, clarifying and dealing with the law pertaining to electronic evidence in India. In the landmark case of Anvar PV v/s PK Basheer, earlier the Supreme Court took hold the opportunity to examine the current state of the law pertaining to electronic evidence and thereafter went ahead to clarify how electronic evidence in India has to be produced and proved in a court of law. The said judgment has universal impact and applicability and has made the entire issue of proof of electronic evidence more cumbersome.

Given the fact that majority of Indians are today only using mobile devices for the purposes of accessing the Internet, it is high time that legal approaches to electronic evidence with specific reference to mobile evidence need to have a relook.

The year 2015 was also remarkable as the debate pertaining to making Aadhaar applicable or mandatory across the board brought its own unique set of challenges. The Supreme Court was crystal clear that Aadhaar doesn't need to be mandatory and that there is a need for more detailed examination of the privacy and other constitutional issues concerning the use of Aadhar programme.

In the year 2015, the Supreme Court has contributed its bit towards evolving jurisprudence on Cyberlaw and related subjects. The Supreme Court has through its various landmark decisions, decided various aspects which have further helped in the evolution of Cyberlaw jurisprudence in India.

The author Pavan Duggal, Advocate, Supreme Court of India, is Asia's & India's leading expert and authority on Cyberlaw & Mobile Law and has been acknowledged as one of the top four cyberlawyers in the world. He can be contacted at his email addresses pavan@pavanduggal.com and pavanduggal@yahoo.com. More about the Author is available at www.pavanduggal.com and <http://www.linkedin.com/in/pavanduggal>.

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