

**Writ Petition Nos.20774 and 20214 of 2018**  
**a n d**  
**W.M.P.Nos.16726 and 16663 of 2019**

S.Manikumar,J  
 a n d  
 Subramonium Prasad,J

**Order of the Court was made by S.Manikumar,J**

W.M.P.No.16663 of 2019 has been filed, to permit Internet Freedom Foundation (IFF), to implead and assist this Court, as respondent, in W.P.No.20214 of 2018.

2. W.M.P.No.16726 of 2019 has been filed, to permit Internet Freedom Foundation (IFF), to implead and assist this Court, as respondent, in W.P.No.20774 of 2018.

3. Affidavits filed in support of the petitions reads thus:-

“3. Founding members of the petitioner Trust were responsible for organising a public spirited campaign called “Save the Internet” in 2016, which garnered over 1.2 million signatures to create rules and policies, which protest “network neutrality”. The campaign led to the enactment of Differential Tariff Regulations, 2016 by the Telecom Regulatory Authority of India to prohibit any

discriminatory practices adopted by Internet companies and telecom operators affecting free and equal access to information on the internet. For a structured engagement, the volunteers of “Save the Internet” campaign established the Internet Freedom Foundation (IFF) to work on issues of privacy, free speech, network neutrality and innovation on the internet.

4. Petitioner trust has a record of responsible engagement with all arms of governance to secure constitutional rights and assist judicial bodies. It has submitted that proactively intervened Courts in India and even in foreign jurisdictions on cases affecting the rights of citizens for open, equitable and secure access to the Internet. Some of the notable cases in which the petitioner has intervened and assisted Courts are set out below:-

a. The Hon'ble Delhi High Court, on 19/9/2016 issued notice to an application for impleadment in W.P.(C) No.1021 of 2016 (Lakshvir Singh Yadav Vs. Union of India), a case related to the creation of the Right to be Forgotten in India. The Hon'ble Court was pleased to issue notice on the applicant - Trust's application on 19/9/2016 and arguments on the intervention will be heard after pleadings are complete.

b. The Hon'ble Supreme Court allowed the petitioner Trust's I.A.No.4 of 2017 to intervene and assist in S.L.P.(C) No.804 of 2017 (Karmanya Singh Sareen Vs. Union of India) vide order dated 27/4/2017. On 15/5/2017, the Hon'ble

Constitution Bench was pleased to permit the petitioner-Trust to submit oral arguments on the violation of privacy of Indian users by sharing of personal data between Whatsapp and Facebook.

c. The Hon'ble Supreme Court on 14/1/2019 issued notice in the petitioner-Trust's W.P.(C) No.44/2019 (Internet Freedom Foundation Vs. Union of India) challenging the constitutionality of Section 69 of the IT Act, the IT (Procedure and Safeguards for Interception, Monitoring, and Decryption of Information) Rules, 2009 and Notification dated 20/12/2018 issued by the Ministry of Home Affairs in exercise of powers conferred by Section 69 (1) read with Rule 4 of the IT Act and Rules.

d. The Hon'ble High Court, on 19/3/2019 passed an order in the petitioner - Trust's application for modification/clarification of judgment passed in W.P.(C) No.11164 of 2018 (Justice for Rights Foundation Vs. Union of India) to remove an inadvertent reference to the unconstitutional Section 66 A in the judgment in which it noted that it had already modified its order. Prior to this, on 20/2/2019, the petitioner/intervenor had written to the Government and also publicly urged for the removal of Section 66 A.

e. The petitioner Trust filed a Public Interest Litigation W.P.(PIL) 11718/2019 (Internet Freedom Foundation Vs. State of Gujarat) before the Hon'ble Gujarat High Court, on 4/4/2019 challenging the ban under Section 144 of the Code of Criminal Procedure, 1973 on a popular

video game called PUBG imposed in various districts of Gujarat. The petition was dismissed on 11/4/2019 with liberty for the aggrieved persons who were impacted by subsequent criminal action to approach Court.

4. Petitioner Trust has participated in consultations organised by TRAI and MIETY on digital rights issues including intermediary liability and online privacy. The Trust also runs educational and online advocacy initiatives and it has created platforms such as "<https://saveourprivacy.in>" for furthering privacy and data protection awareness. The Save Our Privacy campaign has endorsements from more than 11,000 individuals and 33 organisations belonging to different fields. As part of the Save Our Privacy Campaign, the petitioner-trust has also drafted a model privacy code for India, which contains provisions to safeguard data privacy of children.

5. Petitioner-Trust has a record of engagement with government bodies and has rendered assistance to Courts on issues of digital rights, and its trustees are accomplished professionals who have achieved significant success in their respective fields. As is evident from the record, petitioner Trust and its Trustees have a long standing interest in freedom of speech and online privacy, and they have responsibly engaged with the government and judicial bodies on these issues."

endorsed by the Hon'ble Supreme Court in K.S.Puttaswamy Vs. Union of India reported in (2017) 10 SCC 1 (Privacy Judgment) and K.S.Puttaswamy Vs. Union of India reported in (2018) 12 SCALE 1 (Aadhaar Judgment), it is imperative to strike a balance between freedom of speech and protection of children. Therefore, less restrictive alternatives such as alternative measures of verification, controls placed by platforms and restrictions on accessing certain types of features and content should be explored before requiring an authentication measure that is likely to cause more harm than good.”

4. We have gone through the averments in the above said applications. Internet Freedom Foundation (IFF), New Delhi, cannot be said to be a proper and necessary party, in the effective adjudication of the suo motu lis, taken up by this Hon'ble Court. Considering the assistance which the proposed petitioner/intervener and the decisions of the Hon'ble Supreme Court, we deem it fit to permit Internet Freedom Foundation (IFF), as intervener, in W.P.No.20774 of 2019, to assist this Court.

5. Learned counsel appearing for social media, viz., Facebook, Twitter, Whatsapp, Google, You Tube, etc., do not have any objection,

for Internet Freedom Foundation to be permitted, to assist this Court, as intervener. Accordingly, Internet Freedom Foundation, is thus permitted as intervener. Intervener is permitted to seek for certified copies of the case papers.

6. On the modification application Nos.17128, 17135, 17139, 17140 and 17145 of 2019, Mr.Pavit Singh Katoch, learned Senior Counsel for Mr.Allwin Godwin, Whatsapp/twelfth respondent in W.P.No.20774 of 2018 seeks time.

7. The Deputy Secretary to Government, Information Technology Department, Secretariat, Chennai, has filed a common report, dated 26/6/2019, on behalf of the Chief Secretary, State of Tamil Nadu, Chennai; Secretary, State of Tamil Nadu, Department of Information Technology, Chennai and the Commissioner of Police, Chennai, respondents 6 to 8, respectively, wherein, he has set out the details of the request made to the social media, viz., Facebook, Twitter, Whatsapp, Google, You Tube, are furnished. Paragraph 7 of the common report filed, dated 26/6/2019, is extracted hereunder:-

### Face Book

	Account Information & IP Logs request				Content requests				Content removal requests			
	District/ Cities	Request sent	Furni-shed	Not furni-shed	% furni-shed	Request sent	Furnished	Not furnished	% furni-shed	Request sent	Removed	Not removed
CBCID	92	52	40	57	0	0	0	0	25	4	21	16
Cities	276	141	135	51	0	0	0	0	902	584	318	65
Dists	175	87	88	50	0	22	22	0	166	95	71	57
Total	543	280	263	52	0	22	22	0	1093	683	410	62

### Twitter

	Account Information & IP Logs request				Content requests				Content removal requests			
	District/ Cities	Request sent	Furni-shed	Not furni-shed	% furni-shed	Request sent	Furnished	Not furnished	% furni-shed	Request sent	Removed	Not removed
CBCID	18	18	0	100	0	0	0	0	2	2	0	100
Cities	10	0	10	0	0	0	0	0	10	6	4	60
Dists	3	0	3	0	0	0	0	0	3	0	3	0
Total	31	18	13	58	0	0	0	0	15	8	7	53

### Whatsapp

	Account Information & IP Logs request				Content requests				Content removal requests				
	District/ Cities	Request sent	Furni-shed	Not furni-shed	% furni-shed	Request sent	Furnished	Not furnished	% furni-shed	Request sent	Removed	Not removed	% removed
CBCID	7	4	3	0	0	0	0	0	0	0	0	0	0
Cities	78	9	7	22	22	0	22	0	14	0	14	0	0
Dists	21	3	18	2	2	0	2	0	2	0	2	0	0
Total	106	16	78	24	24	0	24	0	16	0	16	0	0

<b>Google</b>												
	Account Information & IP Logs request				Content requests				Content removal requests			
District/ Cities	Request sent	Furni-shed	Not furni-shed	% furni-shed	Request sent	Furnished	Not furnished	% furni-shed	Request sent	Removed	Not removed	% removed
CBCID	19	13	6	68	0	0	0	0	0	0	0	0
Cities	81	65	16	80	0	0	0	0	42	0	42	0
Dists	37	28	9	76	1	0	1	0	9	5	4	56
Total	137	106	31	77	1	0	1	0	51	5	46	10

<b>You Tube</b>												
	Account Information & IP Logs request				Content requests				Content removal requests			
District/ Cities	Request sent	Furni-shed	Not furni-shed	% furni-shed	Request sent	Furnished	Not furnished	% furni-shed	Request sent	Removed	Not removed	% removed
CBCID	1	0	1	0	0	0	0	0	1	0	1	0
Cities	173	7	166	4	0	0	0	0	240	131	109	55
Dists	10	1	9	10	0	0	0	0	11	1	10	9
Total	184	8	176	4	0	0	0	0	252	132	120	52

8. A perusal of the common report, dated 26/6/2019, of the Deputy Secretary to Government, Information Technology Department, Secretariat, Chennai, also shows that during the course of meeting convened by the Chief Secretary, Government of Tamil Nadu and Dr.V.Kamakoti, Professor, Indian Institute of Technology, Chennai, suggested that Whatsapp should consider, including the phone number of the originator of a message, within the message, whenever a message is

being forwarded, which will solve many of the problems. Professor has also given some suggestions. This Court is of the view that if scientific technology, knowledge and data are provided, problems faced by the general public, investigating agencies, could be addressed. Therefore, **we deem it fit to hear Dr.V.Kamakoti, Professor, Indian Institute of Technology, Chennai, to assist us.**

9. Learned Senior Counsel appearing for social media, viz., Facebook, Twitter, Whatsapp, Google, You Tube, submitted that though the Government was directed to furnish the details of information, sought for, State Government has furnished the same only yesterday, and therefore, they seek time to verify from the records and respond. Earlier, we gave one week time, to social media, to respond, after the receipt of the information from the Government. Considering the request, we deem it fit to grant, two weeks time, from today, to respond to the details of information furnished by the State Government, which we had extracted in the foregoing paragraphs.

10. Mr.Sejjan Poovayya, learned Senior counsel appearing for Twitter, submitted that Ministry of Home Affairs has already instructed all the State Government, to make their request, to the intermediaries, for

any information relating to crime, in a specific format. Taking this Court to the comments, and deliberations held in the meeting convened by the Chief Secretary, Government of Tamil Nadu, along with representatives, intermediaries, Government officials and others, he further submitted that there was no discretion on the subject of issuance of specific format by Ministry of Home Affairs. It is also not known as to whether request are in the format as recommended by Ministry of Home Affairs. State Government is directed to ascertain as to whether a specific format is provided by Ministry of Home Affairs and revert.

11. Mr.Arun Karthi Mohan, learned counsel appearing for intervener assured that he would respond, to the common report, dated 26/6/2019, before one week of the date scheduled, for hearing, i.e., on 17/7/2019.

12. Post on 24/7/2019.

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(S.M.K.,J) (S.P.,J)  
27<sup>th</sup> June 2019

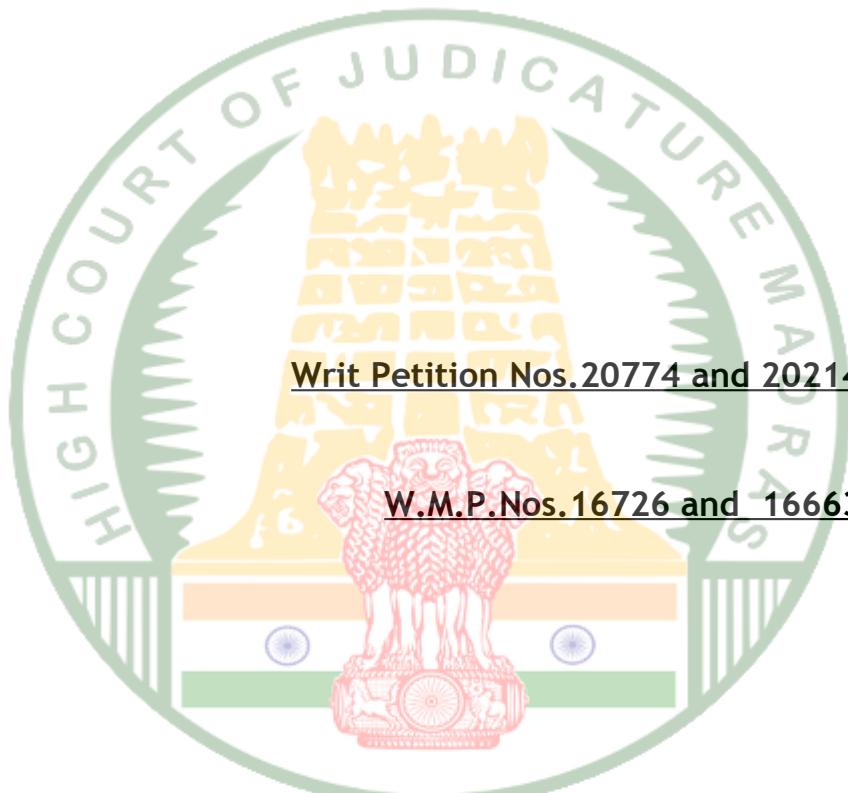
mvs.

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