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## Update On The Digital Personal Data Protection Act, 2023

The Digital Personal Data Protection Act, 2023 (“**DPDP Act**”), received presidential assent on August 11, 2023, and was hailed as a long-awaited response to the Supreme Court’s recognition of privacy as a fundamental right in *Justice K.S. Puttaswamy v. Union of India*.<sup>1</sup> However, the Act has not yet come into force as the commencement of the DPDP Act has not yet been notified by the Central Government. Moreover, the Ministry of Electronics and Information Technology (“**MeitY**”) released the Draft Digital Personal Data Protection Rules, 2025 on January 3, 2025, for public consultation. However, the rules governing the DPDP Act have not yet been officially notified. Thus, even though the DPDP Act has been enacted, it has been inoperative for nearly two years.

The DPDP Act is poised to fundamentally alter the functioning of social media intermediaries by enforcing the principles of data minimisation and purpose limitation, thereby restricting social media platforms from indiscriminately harvesting user data and using it for secondary purposes without explicit consent, which directly threatens their targeted advertising models that rely on large volumes of behavioural data. The Act introduces the concept of data fiduciaries, placing greater accountability on platforms to process personal data responsibly, appoint Data Protection Officers, conduct Data Protection Impact Assessments for high-risk activities, and adopt strong privacy-by-design safeguards, with non-compliance carrying penalties of up to INR 250 crore. In essence, the DPDP Act marks a decisive shift towards a more accountable and privacy-centric digital ecosystem.

## Supreme Court’s decision constitutionalizing digital accessibility

On April 30, 2025, the Supreme Court of India delivered its judgment in *Pragya Prasun*<sup>2</sup> and the connected matter of *Amar Jain v. Union of India*,<sup>3</sup> recognizing “digital accessibility” as a fundamental right intrinsic under Article 21 of the Constitution. The case originated from petitions filed by acid attack survivors with facial disfigurements and a visually impaired person who were unable to complete digital Know Your Customer (KYC) procedures due to requirements for live photographs, blinking, facial alignment, and other visual verifications. Pragya Prasun, the lead petitioner, was denied a bank account as she could not perform the blinking required for liveness verification in the e-KYC process. This exclusion effectively barred the petitioners from accessing essential banking services, telecommunications,

<sup>1</sup> *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1

<sup>2</sup> *Pragya Prasun & Ors. v. Union of India*, (2025) 7 SCC 191

<sup>3</sup> *Amar Jain v. Union of India*, WP 289/2024



insurance, and government welfare schemes, highlighting how technological barriers can perpetuate discrimination.

The bench of Justice J.B. Pardiwala and Justice R. Mahadevan found that existing digital KYC frameworks, by failing to accommodate people with disabilities, amount to systemic discrimination that violates constitutional guarantees and statutory obligations. The Court emphasized that *“bridging the digital divide is no longer merely a matter of policy discretion but has become a constitutional imperative to secure a life of dignity, autonomy and equal participation in public life”*<sup>4</sup>. Drawing on its earlier decision in *Vikash Kumar v. UPSC*<sup>5</sup>, the Court reiterated the State’s duty to ensure meaningful access and integration of people with disabilities into mainstream society. In a landmark move, the Court issued 20 comprehensive directives to transform the digital KYC landscape, mandating alternative verification mechanisms beyond reliance on *“blinking of eyes”* for liveness detection. Key directives include: requiring all regulated entities to follow prescribed accessibility standards; mandating periodic accessibility audits; involving visually impaired persons in user testing of digital platforms; accepting alternative verification methods like Aadhaar Face Authentication; prohibiting sole reliance on eye-blinking for liveness verification; mandating acceptance of thumb impressions in digital KYC; and ensuring continuation of paper-based KYC as an accessible alternative. Following the judgment, both the Reserve Bank of India and the Securities and Exchange Board of India issued circulars to implement these directives, amending the Master Direction on KYC to enhance accessibility.

The *Pragya Prasun* judgment marks a pivotal moment in technology litigation in India, as it elevates digital accessibility from a policy consideration to a constitutional mandate. The Supreme Court has fundamentally redefined how technology services must be designed and implemented.

## **X Corp contends it is not bound to onboard the Sahyog portal**

X Corp. (formerly Twitter) filed a writ petition before the Karnataka High Court seeking protection against being compelled to integrate with the Government’s ‘Sahyog’ portal. The company also pressed for a judicial declaration that Section 79(3)(b) of the Information Technology Act, 2000 (**“IT Act”**) does not independently empower the Government to order content removal, and that any blocking of online material must strictly follow the procedure laid down under Section 69A of the IT Act and the 2009 Blocking Rules.

<sup>4</sup> *Pragya Prasun & Ors. v. Union of India*, (2025) 7 SCC 191

<sup>5</sup> *Vikash Kumar vs UPSC*, (2021) 5 SCC 370



The Sahyog portal, developed by the Ministry of Home Affairs, is designed to automate and centralize the process through which government authorities issue takedown or removal notices to online intermediaries in cases involving unlawful content.

X Corp. argued that officials from various central ministries have been issuing takedown requests under Section 79 of the IT Act. The company contended that such directions are tantamount to blocking orders under Section 69A, but are being issued without following the safeguards and oversight mechanisms prescribed by law and affirmed by the Supreme Court in *Shreya Singhal*<sup>6</sup>. It was further claimed that the Sahyog portal lacks legislative backing and enables circumvention of these procedural protections.

The Union Government disputed X Corp.'s locus, asserting that as a foreign entity, it cannot claim the benefit of fundamental rights under Articles 14, 19, and 21 of the Constitution. The Solicitor General emphasized that the “safe harbour” under Section 79 is a conditional immunity available to intermediaries, not an absolute protection. According to the Government, the Sahyog portal merely streamlines compliance obligations under Rule 3(1)(d) of the IT Rules and does not replace or dilute the blocking procedure under Section 69A.

It was further highlighted that leading intermediaries such as Google, Microsoft, and Amazon have already enrolled on the Sahyog system, with Meta expected to join shortly. Stressing the growing algorithmic and curatorial influence of social media platforms, the Government justified the need for stronger compliance measures. The portal, it argued, is a tool of efficiency and accountability, rather than a mechanism for punitive blocking.

Having heard all parties, the Court has now reserved its judgment in the matter.

However, a parallel issue is also under consideration before the Delhi High Court in *Shabana v. Government of NCT of Delhi & Ors.*<sup>7</sup> where the Court, while dealing with a petition concerning a missing 19-year-old boy, noted delays in the transmission of information sought by the police from social media platforms. In this context, the Court observed that the participation of intermediaries such as X Corp. in the Sahyog portal is being examined specifically to ensure timely cooperation in cases relating to missing children, human trafficking, drug trafficking, and issues of national security. The Court has directed the Central Government to file a clear response by September 10 2025, on whether X Corp. should be made a compulsory part of the Sahyog portal for such cases.

## Delhi High Court upholds free speech in product review case

<sup>6</sup> *Shreya Singhal vs Union of India*, (2015) 5 SCC 1

<sup>7</sup> *Shabana v. Government of NCT of Delhi & Ors.*, W.P. (CRL) 1563/2024



In the matter of *San Nutrition Private Limited vs. Arpit Mangal*<sup>8</sup>, the Delhi High Court declined to grant a permanent injunction sought by the Plaintiff, San Nutrition Private Limited, against four social media influencers. The Plaintiff had alleged defamation, product disparagement, trademark infringement, and use of unfair trade practices by the Defendants, who had posted critical video reviews of the Plaintiff's nutraceutical and healthcare products on various online platforms.

The Court observed that the Defendants' criticisms were supported by laboratory test reports, which formed the basis of their commentary. It held that in instances where product reviews or brand criticism are grounded in scientific analysis or factual material, such commentary does not constitute defamation. Recognizing the Defendants' reliance on the legal defences of 'truth' and 'fair comment', the Court found them to be well-established and applicable in this case.

Importantly, the Court drew a legal distinction between the torts of defamation and disparagement. While defamation is concerned with damage to an individual's or entity's reputation, disparagement relates to false or misleading statements affecting the commercial standing of goods or services. The Plaintiff failed to demonstrate that the Defendants' statements were either factually incorrect or made with malicious intent. On the issue of trademark infringement, the Court clarified that the mere use of a brand name in the context of product critique does not amount to infringement, provided it is not misleading or used for commercial gain. The Court concluded that the balance of convenience lay in favour of the Defendants, and that restraining them from publishing such reviews would amount to an unjustified curtailment of their right to freedom of speech and expression under Article 19(1)(a) of the Constitution. Furthermore, such a restriction would impede the public's right to access relevant information on matters affecting health and consumer interest.

### **From accused to anonymous: Delhi HC advances right to be forgotten**

The Delhi High Court significantly advanced the right to be forgotten doctrine in India through its judgment in *ABC Judgement*<sup>9</sup>. The case involved a petitioner who sought to have his name masked in court records after being acquitted of criminal charges. Justice Amit Mahajan's ruling recognized that the continued online availability of the petitioner's name in connection with criminal proceedings, despite full exoneration, was causing "*irreparable prejudice*" to the petitioner's social life and career prospects. Drawing extensively from the Supreme Court's *Justice K.S. Puttaswamy* decision, the Court affirmed that the right to be forgotten constitutes an integral component of the right to privacy under Article 21 of the Constitution. The judgment emphasized that "*in the age of internet, every piece of information that finds its way*

<sup>8</sup> *San Nutrition Private Limited vs. Arpit Mangal*, (CS(COMM) 420/2024)

<sup>9</sup> *ABC v. State & Anr.*, CRL.M.C. 495/2019



to the internet, gains permanence,”<sup>10</sup> highlighting why special protection is needed in the digital realm.

Justice Mahajan emphasized that “*there is no reason why an individual who has been duly cleared of any guilt by law should be allowed to be haunted by the remnants of such accusations easily accessible to the public.*”<sup>11</sup> This principle was applied by directing the registry to replace the names of the petitioner and Respondent No. 2 with pseudonyms ‘ABC’ and ‘XYZ’ in all court records and search results. The Court further permitted the petitioner to approach “*all concerned portals, public search engines to mask the judgment*”<sup>12</sup> insofar as the names were concerned and expressed an expectation that social media platforms and search engines would respect these privacy principles when approached.

By focusing on individuals who have been cleared of criminal charges, the Delhi High Court has carved out a clear category of cases where the right to be forgotten should prevail over competing interests in information access. However, as Google has argued in previous Delhi High Court appearances, the right to be forgotten “*has various shapes and shades,*” and its application will likely continue to be refined on a case-by-case basis as courts navigate the complex interplay between privacy, dignity, and information rights in the digital age.

### **Delhi High Court directs Wikipedia to remove defamatory content**

The Delhi High Court, in *ANI Media*<sup>13</sup>, has held that an intermediary like Wikipedia cannot evade responsibility for defamatory content hosted on its platform by merely claiming protection under the IT Act, 2000. The decision came in a suit filed by ANI Media Pvt. Ltd. seeking removal of false and misleading statements from its Wikipedia page, disclosure of the identity of administrators responsible for the edits and lifting of restrictions that prevented corrections.

The Delhi High Court held that Wikipedia’s protection status imposed on ANI’s page unfairly curtailed ANI’s right to correct defamatory content. Consequently, Wikipedia and its administrators were directed to take down the defamatory content, restore edit access, and ensure compliance with neutrality standards.

The Court observed that Wikipedia enjoys public credibility as an online encyclopaedia and, therefore, bears a higher fiduciary responsibility to prevent defamatory and distorted content. It found that the impugned edits on Wikipedia’s websites introduced by certain administrators were not neutral reproductions of reliable sources but twisted interpretations of opinion pieces,

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<sup>10</sup> *Ibid* at Para 11

<sup>11</sup> *Ibid* at Para 12

<sup>12</sup> *Ibid* at Para 14

<sup>13</sup> *ANI Media (P) Ltd. v. Wikimedia Foundation Inc.*, 2025 SCC OnLine Del 2134



thereby rendering them *ex facie* defamatory. The Court also rejected the application of the “Single Publication Rule”, holding that the disputed edits were not verbatim reproductions of cited articles but fresh defamatory publications.

## **Rajasthan High Court took suo moto cognizance of ‘digital arrest scams’**

“*In Re: In the matter of tackling the issue of ‘Digital Arrest Scams’, Cyber Crimes and saving the innocent people from loosing their money and lives,*” the Rajasthan High Court, taking suo motu cognizance of the increasing menace of “*digital arrest scams*” and other cybercrimes, directed the State and Central Government to submit reports on the steps being taken to curb such offences. Justice Anoop Kumar Dhand observed that digital arrests have no legal basis under Indian law and stressed the urgent need for public awareness campaigns through print, electronic, and social media to educate citizens about lawful arrest procedures and their rights.

The Court noted that fraudsters posing as enforcement agencies coerce victims through threats into transferring large sums of money, a tactic it described as one of the most insidious forms of cybercrime in the digital age. Referring to international responses such as Australia’s legislative measures, the USA’s awareness drives, Singapore’s AI-based monitoring, and INTERPOL’s cooperation frameworks, the Court emphasized that India must adopt equally robust safeguards.

While appreciating existing steps like dedicated cybercrime helplines, forensic labs, and workshops, the Court opined that more serious measures were needed, including RBI-backed mechanisms to block fraudulent transfers. Relying on the Bharatiya Nagrik Suraksha Sanhita, 2023, the Court reiterated that arrests in India must follow due process, with summons issued in the prescribed form and arrest memos properly prepared and attested.

## **PIL filed in the Delhi High Court seeking regulation and control of deepfake technology and artificial intelligence**

Mr. Chaitanya Rohilla<sup>14</sup>, Advocate, along with journalist Mr. Rajat Sharma, filed Public Interest Litigations (PILs) in the Delhi High Court urging regulation of deepfake technology and artificial intelligence (AI).

The PIL highlights the proliferation of deepfake technology and its misuse in creating deceptive content involving non-consensual imagery, fraud, and misinformation. It cites specific incidents where deceptive videos of politicians and actors were circulated online and includes a list of websites offering such “*deepfake services,*” enabling the creation of misleading content. The PIL argues that a regulatory vacuum exists in India, as there are no

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<sup>14</sup> *Chaitanya Rohilla v. Union of India, W.P.(C) 15596/2023*



laws or rules currently governing AI and deepfake technology. Consequently, the Union of India, through MEITY, has been urged to establish guidelines and develop mechanisms to regulate deepfake technology and AI. Directions have also been sought against MEITY to identify and block websites providing access to deepfake technology.

On November 21, 2024, MEITY informed the Court of the formation of a nine-member committee comprising experts from various fields to address the issue of deepfakes. The Court directed the committee to submit its report within three months and invite and hear the experiences and suggestions of stakeholders like the intermediary platforms before submitting its report. Following the order dated November 21, 2024, MEITY submitted a status report stating that two committee meetings had already taken place, however, the Committee needs some more time to deliberate on the issue further.

The case is now scheduled to be heard on October 15, 2025.

## **Bombay High Court recognizes unauthorized AI voice replication as a violation of personality rights**

In July 2024, the Bombay High Court delivered its decision in *Arijit Singh v. Codible Ventures LLP*<sup>15</sup> establishing a significant precedent for the protection of personality rights against unauthorized exploitation through artificial intelligence (AI) technologies. This case represents one of the first judicial interventions in India specifically addressing AI voice cloning and its implications for personality rights.

Arijit Singh, a celebrated Indian playback singer, filed an intellectual property suit against multiple defendants, including Codible Ventures LLP. The suit alleged exploitation of Singh's personality traits through various media, most notably through AI-generated content such as voice modulation and deepfake videos. The defendants were operating websites that directed users to AI platforms where any text or speech could be converted into Singh's voice, allowing users to create music mimicking his distinctive vocal style without his consent. Additionally, some defendants were exploiting Singh's publicity rights by advertising and selling unauthorized merchandise featuring his name and image, including clothing, guitar accessories, phone cases, and other items on e-commerce websites. Other defendants were enabling users to create, store, and share GIFs comprising short video recordings of Singh's performances.

Justice R.I. Chagla of the Bombay High Court granted an *ex parte ad-interim* injunction in favor of Arijit Singh. The Court found *prima facie* evidence that the defendants had unauthorized use of Arijit Singh's personality traits for commercial gain. The Court observed that the defendants were capitalizing on Singh's popularity to drive traffic to their websites

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<sup>15</sup> *Arijit Singh v. Codible Ventures LLP*, IPR SUIT (L) NO.23443 of 2024



and AI platforms without his consent, thereby violating his personality rights and right to publicity. In its reasoning, the Court emphasized that AI tools enabling voice replication without consent violate celebrities' personality rights as they allow unauthorized appropriation of a celebrity's voice, which is "*a key component of their personal identity and public persona*"<sup>16</sup>. The Court acknowledged that "*while freedom of speech and expression allows critique and commentary it does not grant the license to exploit a celebrity's persona for commercial gain*"<sup>17</sup>.

The Court also noted that such unauthorized use not only disables a person from having control over their own personality and its exploitation but also facilitates manipulation in the market. It recognized that the exploitation of technology undermines the ability to prevent commercial and deceptive use of a person's identity while infringing upon their right to control and protect their own likeness. The Court also ordered the suspension of domain names created in Singh's name and directed the removal or deletion of all references to Singh's personality traits in videos that violated his rights.

This judgment represents a significant step in protecting personality rights in the era of rapid technological advancements, particularly AI. It reinforces the judiciary's responsibility in curbing the unauthorized commercial use of a celebrity's identity, particularly in cases where AI tools can mimic voices or likenesses without consent. By holding that offering such tools without permission amounts to a violation of an individual's persona, the decision lays down a vital precedent for future disputes involving digital impersonation and misuse of personal attributes.

It also aligns with global developments, as other jurisdictions like the United States are introducing legislation such as the "NO FAKES Act" and Tennessee's "ELVIS Act" to protect individuals against unauthorized digital replicas using their voice or likeness. As AI continues to evolve, this case underscores the need for clear guidelines and legislative efforts to protect creators' rights and ensure that AI development is ethically and legally compliant.

## **Delhi High Court examines legality of generative AI models**

The Delhi High Court is presently examining the legality of the operations of generative AI models in *Asian News International v. OpenAI Opco LLC*<sup>18</sup>. The plaintiff, a leading news agency, contended that the defendant, operator of ChatGPT, unlawfully used its proprietary news content for training its large language models without licence or authorisation and that the model, in generating responses, reproduces portions of such content. Mr. Sibal appearing

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<sup>16</sup> *Ibid* at Para 18

<sup>17</sup> *Ibid* at Para 31

<sup>18</sup> *Asian News International v. OpenAI Opco LLC, CS(COMM) 1028/2024*



for the defendants submitted that similar cases have been initiated in other jurisdictions, including the United States, but there are no authoritative rulings so far.

This case is a first of its kind in India, involving complex and novel issues related to the use of copyrighted material in training advanced language models. Currently, no established legal precedent addresses these concerns. Accordingly, the Court has identified four central issues which necessitates consideration: I. *“Whether the storage by the defendants of plaintiff’s data (which is in the nature of news and is claimed to be protected under the Copyright Act, 1957) for training its software i.e., ChatGPT, would amount to infringement of plaintiff’s copyright.* II. *Whether the use by the defendants of plaintiff’s copyrighted data in order to generate responses for its users, would amount to infringement of the plaintiff’s copyright.* III. *Whether the defendants’ use of plaintiff’s copyrighted data qualifies as ‘fair use’ in terms of Section 52 of the Copyright Act, 1957.* IV. *Whether the Courts in India have jurisdiction to entertain the present lawsuit considering that the servers of the defendants are located in the United States of America.*”<sup>19</sup>

This case represents a pioneering legal challenge in India, addressing complex copyright issues concerning the use of proprietary content for training advanced language models. It underscores the absence of clear legal precedents and highlights the need for judicial interpretation in this emerging field. The final determination will be significant in shaping the legal framework for artificial intelligence in India. This case is pending before the court and is next listed for submissions of the intervenors on 12th September 2025.

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<sup>19</sup> Order dated 19<sup>th</sup> November 2024 (*Asian News International v. OpenAI Opco LLC*, CS(COMM) 1028/2024) at Para 27



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