



The power of scrutiny

SC has struck a blow for inquisitorial powers of legislatures against social media companies.

Inquisitorial powers of legislatures

1. The Supreme Court of India's verdict, upholding the authority of a committee of the Delhi Assembly to summon a senior official of Facebook, is an extremely nuanced recognition of the extent of powers of State Assemblies in matters regulated by an Act of Parliament.
2. The question mark about the powers arose in the first place because Facebook, whose India vice-president was repeatedly summoned by the Delhi Assembly's Committee on Peace and Harmony on the subject of the Delhi riots of 2020, argued before the Supreme Court that this was a case of overreach; and that Delhi's law and the order came under the central government.
3. This was also the position taken by the central government, which argued that the Delhi Assembly had no jurisdiction in this matter.
4. The social media platform also pointed out that it was governed by the IT Act of Parliament, and this is not therefore something that any State government can be concerned with.
5. The Court, in upholding the summons, did not go merely by the legislative powers of a House. It rightly said, the Assembly does not only perform the function of legislating; there are many other aspects of governance that can form part of the essential functions of the Legislative Assembly and consequently the committee.
6. Its point was that the "inquisitorial" and "recommendatory" powers of a House can be used for better governance. But it also cautioned the committee from "transgressing into any fields reserved for the Union Government".

Not just intermediaries:

1. Significantly, the verdict comes amid a long phase of discordance over legislative turf between the central government and the Delhi government, something that the Bench led by Justice S.K. Kaul did note amid discussions about the spirit of federalism.

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2. Not just that. It also comes at a time when social media intermediaries are legally fighting some aspects of the new IT rules that govern them. Their responsibility toward the many legislatures will only become more heightened because of this verdict.
3. The Court refused to buy the argument that social media intermediaries are “merely a platform for the exchange of ideas without performing any significant role themselves”.
4. It then linked what happens in these platforms to the real world. Misinformation on social media, the Court said, has had “a direct impact on vast areas of subject matter which ultimately affect the governance of States”.

Given the constraints of the powers of the Delhi Assembly vis-à-vis law and order, the very fact that the Court found that its committee still could summon the Facebook India official without encroaching upon the turf of the Centre now opens the gates for scrutiny of social media platforms by other States, which however have significantly more powers with respect to law and order. The stage is set for more scrutiny.