Amendments to the IT Rules 2021

Why in news?

The Ministry of Electronics and Information Technology (MeitY) has notified amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (IT Rules, 2021).

What are the IT Rules, 2021?

- In a bid to keep up with the issues of the social media intermediaries (SMIs), India replaced its decade old regulations on SMIs with the IT Rules, 2021.
- The IT Rules, 2021 were primarily aimed at **placing obligations on SMIs** to ensure an open, safe and trusted internet.
- The set of proposed amendments can be broadly classified into two categories.
    1. The first category involved placing additional obligations on the SMIs to ensure better protection of user interests, and
    2. The second category involved the institution of an appellate mechanism for grievance redressal.

What are the additional obligations placed on the SMIs?

- **Obligation on User compliance** - The original IT Rules, 2021 obligated the SMIs to inform its users of the "rules and regulations, privacy policy and user agreement" that governed its platforms.
- This obligation on the SMIs has now been extended to ensuring that its users are in compliance with the relevant rules of the platform.
- Further, SMIs are required to "make reasonable" efforts to prevent prohibited content being hosted on its platform by the users.
- To a large extent, this enhances the responsibility and concomitantly the power of SMIs to police and moderate content on their platforms.
- While the SMIs are unclear of the extent of measures they are expected to undertake, users are apprehensive that the increased power of the SMIs would trample on freedom of speech and expression.
- **Constitution-based obligation** - There is an obligation on SMIs to respect all the rights accorded to the citizens under the Constitution, including the Articles 14, 19 and 21.
- Given the importance of SMIs in public discourse and the implications of their actions on the fundamental rights of citizens, the horizontal application of fundamental rights is laudable.
- However, the wide interpretation to which this obligation is open to by different courts, could translate to disparate duties on the SMIs.
- **Obligation to remove information** - SMIs are obligated to remove information or a

communication link in relation to the six prohibited categories of content as and when a complaint arises.
- They have to remove such information within 72 hours of the complaint being made.
- **Obligation to take measures** - SMIs have been obligated to take all measures to ensure accessibility of its services to users along with reasonable expectation of due diligence, privacy and transparency.
- The obligation is meant to strengthen inclusion in the SMI ecosystem such as allowing for participation by persons with disabilities and diverse linguistic backgrounds.

What are the Grievance Appellate Committees?

- Prior to the IT Rules 2021, platforms followed their own grievance redressal mechanisms and timelines for resolving user complaints.
- The IT Rules uniformed this by mandating that all social media platforms should have a **grievance officer** who would acknowledge the receipt of a complaint within 24 hours and dispose it within 15 days.
- However, the performance of the current grievance redressal mechanism has been sub-optimal.
- To remedy this, the government has instituted Grievance Appellate Committees (GAC).
- The committee is styled as a **three-member council** out of which
    1. One member will be a government officer (ex officio) and
    2. The other two members will be independent representatives.
- GACs will be established to allow users to appeal against the inaction of, or decisions taken by Grievance Officer or intermediaries on user complaints within 30 days.
- But, users will always have the right to approach courts for any remedy.
- Importantly, the GAC is required to adopt an online dispute resolution mechanism which will make it more accessible to the users.
- However, the IT Rules, 2021 do not provide any explicit power to the GAC to enforce its orders.

References

1. The Hindu | The amendments to the IT Rules, 2021
2. PIB | Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021
3. Economic Times | Govt notifies changes to IT Rules 2021

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