Delhi High Court on 'Right to be Forgotten'

Why in news?

The Delhi High Court, in a recent case, upheld the view that the "Right to Privacy" includes the "Right to be Forgotten" and the "Right to be Left Alone".

What is the case on?

- The court's order came in response to a suit filed by a Bengali actor.
- Some of the demonstrational videos of her that did not go for streaming are in circulation in the internet.
- She has not permitted even the producer of the videos to publish them.
- The videos are being portrayed in a manner that infringes her privacy.
- Earlier, Ashutosh Kaushik who won a reality TV show made a plea saying that his videos, photographs and articles etc. be removed from the internet citing his "Right to be Forgotten".

What are the Court's remarks?

> Right to be forgotten or the right to erasure, is the right to have personal information removed from the Internet and other directories.
>
> Right to be left alone - The State or the society will not interfere in the individual choices of a person so long as they do not cause harm to others. State intrusion is allowed onlyif necessitated by a just, reasonable, and fair law.

- The Court has already held that "right to privacy" includes the right to be forgotten and the right to be left alone as "inherent aspects".
- Explicit videos that are being circulated have a clear and immediate impact on the reputation of the person seen in the videos.
- The court thus called for protection of the plaintiff from invasion of her privacy on account of such publication/transmission of the videos.

How legally sound is the 'Right to be Forgotten' in India?

- **Fundamental right** - In 2017, the Right to Privacy was declared a fundamental right by the Supreme Court in its landmark verdict.

- It held that the right to privacy is protected as an intrinsic part of the right to life and personal liberty under Article 21 of the Constitution.
- It is thus part of the freedoms guaranteed by Part III of the Constitution.
- **Section 20 of the Personal Data Protection Bill** - The data principal shall have the right to restrict or prevent the continuing disclosure of his/her personal data by a data fiduciary where such disclosure -
    1. has served the purpose for which it was collected or is no longer necessary for the purpose;
    2. was made with the consent of the data principal under section 11 and such consent has since been withdrawn; or
    3. was made contrary to the provisions of this Act or any other law for the time being in force.

What lies ahead?

The judiciary should engage in a detailed analysis of the Right to be Forgotten and evolve a mechanism for balancing the conflicting rights of privacy and freedom of expression.

Source: The Indian Express

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