

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 only if 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 was made with the consent of the data principal under section 11 and such consent has since been withdrawn; or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

