Emergency Powers under the IT Rules

Why in news?

The Ministry of Information and Broadcasting (MIB) directed YouTube and Twitter to take down links sharing the BBC documentary 'India: The Modi Question' under the emergency provisions of the IT Rules, 2021.

What is the case about?

- **BBC documentary case** - A BBC documentary on the **Gujarat riots of 2002** questions the actions taken by the then Gujarat government led by Prime Minister Narendra Modi.
- The MIB directed YouTube and Twitter to take down links sharing the documentary under **Rule 16(3) of the IT Rules and Section 69(A) of the IT Act, 2000** that allow for "emergency blocking".
- Notably, there has been **no official press release** for the online blocking of the BBC documentary.
- **Reasons** - For allegedly defaming the credibility of Supreme Court, sowing divisions among the communities, making unsubstantiated claims regarding actions of foreign governments in India.

What are the emergency provisions?

- **IT Rules** - Under the IT Rules, 2021, notices for content takedown can be issued to social media intermediaries in emergency situations upon the satisfaction of the Secretary, MIB.
- **Reasons** - These emergency notices can be issued if the MIB believes that the content can impact the
    - Sovereignty
    - Integrity
    - Defence, or security of India
    - Friendly relations with foreign states or public order
    - To prevent incitement to any cognisable offence
- Since 2021, the MIB has used the emergency provisions at least seven times, most prominently for YouTube.

What can users whose content has been impacted do?

- If a platform has **on its own** taken down some content, the user can approach the grievance officer of the platform to raise a dispute, which they are to redress within 15 days.
- If a platform has taken down content **on the basis of the emergency provisions** in the Rules, the legislation does not offer any direct recourse.

- The only option users have in this case is to approach courts.
- However, the blocking orders are confidential and the users will not know the provisions under which their content was flagged.

What are the concerns regarding online content regulation?

- **Natural justice** – In ***Cricket Association of Bengal*** case, the Supreme Court recognised that the right to receive and impart information is implicit in free speech.
- In the case of ***Shreya Singhal vs Union of India***, the Court upheld that blocking powers under Section 69A subject to reasons have to be recorded in writing.
- However, blocking orders are marked as "confidential" and transmitted to service providers, making it difficult for the authors an opportunity of defence and the general public to challenge them.
- Press releases that are selectively issued instead of disclosing the text of orders becomes a form of **opacity**.
- **Perpetual emergency** - In 2021, the Bombay High Court suspended Rules 9(1) and 9(3) that establish a code of ethics for online news platforms and a three-tier grievance redress mechanism headed by the central government.
- In its interim order it held that it is healthy to invite criticism for the nation to have structured growth.
- There is a rise in use of emergency powers despite the top court staying the existing proceedings in 2022.
- The BBC documentary that has been described by public authorities as "propaganda" reflecting "a colonial mindset" cannot be understood how it qualifies as an emergency.
- **Centralisation of executive power** - In 2021, the rules were amended to increase government control over online platforms and news publishers.
- It also required news publishers to follow a vague moral code of self-censorship that permitted grievances to be escalated to the government, leading to stay orders by High Courts.
- In 2022, it created a government censorship body sitting in appeal of all content moderated by social media companies.
- In 2023, MeitY wanted to create a self-regulatory system for online gaming and gambling companies, which is **against federalism**, given that legislation on it is a **State subject**.
- The unlimited censorship powers is also seen as a direct **violation of fundamental rights**.

References

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2. The Hindu | On the BBC documentary on PM Modi
3. The Indian Express | Emergency powers for online content



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