Fact Check Unit

Why in news?

Tamil Nadu government recently ordered the creation of a fact check unit to verify the authenticity of information about the government on all media platforms.

What are the provisions of fact check unit?

- **Objective**- To act as a deterrent to creators and disseminators of fake news.
- To combat misinformation, disinformation and hate speech.
- **Power-** The unit can take *suo motu cognisance* of any information related to the government for fact-checking or act on complaints from various sources.
- **Key components** – It includes
    - **Social Media Cell-** To propagate the news about the government's welfare schemes and initiatives.
    - **Central task force (CTF)-** Based in Chennai, it is the official fact check unit of the State.
- **Complaint processing-** The CTF will use *fact-checking tools* and government sources to sort the complaints into actionable or non-actionable categories.
- **Legal action**- The CTF will seek advice from the legal and police departments and forward the actionable complaints to the relevant authorities.
- **IT Rules 2021-** It is created in reference to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, issued by the Central government to regulate
online content and platforms.

Why fact check unit is unconstitutional?

- **Against Article 19-** It violates the freedom of speech and expression guaranteed by Article 19(1)(a) of the Indian Constitution.
- **Curbs dissent**- The fact check unit could potentially censor any dissenting or critical views of the government.
- **Affect media's independence** - It could undermine the role of independent media and journalism.
- **Lack of clarity**- The unit lacks clear criteria for determining what constitutes fake, false or misleading information.
- **Political interference**- The fact check unit could be influenced by political or ideological biases and arbitrarily label any information as false or misleading, without providing evidence or justification.
- **Infringes Article 21-** It could access and monitor the online activities of the users

and compel the intermediaries to disclose their personal information thus infringing the right to privacy.

- **Limitations of GO-** The constitutional right to express opinions and information can only be restricted by a law passed by the State, not by a Government Order (GO).
- **Lack of fair hearing**- The order does not give a chance for the author of the post to defend themselves, and gives the government the power to decide and act on the authenticity of the information.
- **Conflict of interest**- The government becomes the judge, jury, and executioner on the authenticity of information.
- **State run fact check unit**- European Commission's *Code of Practice on Disinformation* constitutes independent network of fact-checkers, but the State run units will harm the society.
- **Exceeded authority**- It exceeds the scope of *Information Act, 2000* under which it is established.
- The intermediaries could lose their independence and efficiency due to the unit, which could burden them with excessive and unjustified duties, without any legal authority or approval.
- **Centre's FCU**- The Centre's constitution of FCU under IT rules, 2023 is put on hold after it was challenged before Bombay High Court.

Centre's Fact Check Unit
• The Centre has decided to create an FCU to track fake and misleading news related to the government on online platforms such as Facebook and Twitter. • **Amended IT rules 2021-** It allows the IT ministry to appoint a fact-checking body that will take a call on whether online information related to the Union government is accurate. • **Safe harbour protection**-The online intermediaries will have to take down the content labelled as fake by the FCU or lose their legal immunity against third-party content online.

What lies ahead?

- The monitoring network should follow *principles of natural justice* including giving prior notice, right to appeal and judicial oversight.
- FCU need to be transparent and non-discriminatory to prevent selective application.

References

1. The Hindu- Unconstitutional fact check unit
2. The Hindu- Why Tamil Nadu's FCU is opposed

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