Right to be Forgotten

Why in news?

The Delhi High Court is set to hear a doctor's plea for enforcement of his 'Right to be Forgotten'.

What is the case about?

- In *Dr. Ishwarprasad Gilda vs. Union of India & Others,* a practicing doctor was accused of offenses under the Indian Penal Code (IPC)
  - Section 304A - causing death by negligence
  - Section 417 - cheating
  - Section 170 - personating a public servant
- The doctor was accused of illegally procuring medicines from abroad and administering them to HIV patients in India.
- The doctor approached the Delhi High Court seeking directions to remove all irrelevant news or to pass any other order to safeguard his dignity, including availing his Right to be Forgotten.

What is the Right to be Forgotten?

- **Right to be Forgotten** – It is the right to remove or erase content so that it's not accessible to the public at large.
- It empowers an individual to have information in the form of news, video, or photographs deleted from internet records so it doesn't show up through search engines, like Google.
- **Origin** - The Right to be Forgotten originates from the *2014 European Court of Justice*.
- Thereafter, it was included in the *EU's General Data Protection Regulation (GDPR)* in addition to the right to erasure.

What is the law on the Right to be Forgotten?

- **Section 43A of the IT Act, 2000** – It says that organizations who possess sensitive personal data and fail to maintain appropriate security to safeguard such data, may be obligated to pay damages to the affected person.
- **IT Rules, 2021** – It *does not include* this right.
- However, it lays down the procedure for filing complaints with the designated Grievance Officer to have content exposing personal information about a complainant removed from the internet.
- **Personal Data Protection Bill** - The Ministry of Electronics and Information Technology introduced the Personal Data Protection Bill in the Lok Sabha.
- Clause 20 under Chapter V of the draft bill mentions the Right to be Forgotten as the

right to restrict or prevent the continuing disclosure of personal data by a data fiduciary.

What have the courts said so far?

- The right is *not recognized by a law or a statute* in India expressly.
- The courts have repeatedly held it to be endemic to an individual's *Right to Privacy under Article 21*.
- The Supreme Court in ***K.S.Puttaswamy vs UOI*** referred to the European Union Regulation of 2016 which recognized the right to be forgotten as an individual's right to remove personal information from the system.
- However, the court also recognized that such a right can be restricted by the right to freedom of expression and information or for compliance with legal obligations.

Reference

Indian Express | What is the 'Right to be Forgotten'?

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