Right to be Forgotten - Delhi HC Order

What is the issue?

- The Delhi High Court recently ordered the removal of one of its own judgments from easy access.
- It comes as an important development for the 'right to be forgotten.'

What is the case about?

- The petitioner was acquitted of certain crimes by the court.
- The judgment was freely accessible on the Internet, which the petitioner was unhappy of.
- The petitioner thus sought removal of the judgment from a leading database platform and search engines.
- The court, as a temporary relief, asked search engines to remove this order from search results.
- It also ordered the database platform to block the judgment from being accessed by search engines.

What is the rationale?

- The High Court recognised that the petitioner may have a right to be forgotten.
- The right to be forgotten is, generally, the right to have information about a person removed from public access.
- The idea is that individuals should be able to determine the development of their life in an autonomous way.
- Persons cannot be perpetually stigmatised for past conduct.

What is the SC ruling in this regard?

- In 2017, the Supreme Court recognised the right to be forgotten as being under the ambit of the right to privacy (specifically, informational privacy) under the Constitution.
- It observed that if someone desired to remove personal data from the virtual space, it ought to be respected.
- However, the right to be forgotten was subject to reasonable restrictions based on countervailing rights such as free speech.

How is it in practice?

- Despite the Supreme Court's judgment, the right remains underdeveloped in India.
- For now, individuals may request data hosts to take down some content.
- It may be taken down based on the policies of the respective hosts.

What are the concerns?

- There is a general consensus that people should be allowed to modify or delete information uploaded by themselves.
- However, whether this extends to information uploaded by third parties is uncertain.
- If the person was never convicted, should they continue to bear the infamy is a big question.
- The U.S. Supreme Court, in a similar case, has disallowed suppression of criticism and accountability, especially against powerful figures.
- There may be significant merit to the right to be forgotten.
- But, whether it extends to the removal of judgments of courts of record is questionable.
- Judgments are published for good reasons. Trials held under public scrutiny act as a check against judicial arbitrariness.

What could have been done?

- This is perhaps the first instance of a court ordering the removal of access to its complete final judgment from certain spaces.
- Instead, the Delhi HC could have ordered that the name and personal details of the petitioner be redacted.
- And the public access to the judgment itself could have been maintained.
- The Streisand effect should also be taken into account.
- [It is a social phenomenon that occurs when an attempt to hide, remove, or censor information has the unintended consequence of further publicizing that information, often via the Internet.]
- The issue has been listed for a final hearing and the outcome is keenly awaited.

Source: The Hindu



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