Scrapped Law in Use - Sec 66A of the IT Act

Why in news?

Section 66A of the Information Technology Act, 2000, scrapped in 2015 by the Supreme Court, is still being used by law enforcement agencies of various states.

What is Section 66A about?

- Sec 66A of the IT Act relates to sending messages through computer or any other communication device like a mobile phone or a tablet.
- Sending messages that were "offensive" or "menacing" or for the purposes of causing annoyance, inconvenience, etc. was made a criminal offence.
- The police had the discretion to decide upon such cases and were empowered to make arrests.
- The conviction could fetch a maximum of 3 years in jail.
- In its landmark judgment in Shreya Singhal (2015), the Supreme Court struck down Section 66A.
- It called the provision "open-ended and unconstitutionally vague."
- The provision upset the balance between the exercise of the free speech right and the imposition of reasonable restrictions on it.
- The judgement thus expanded the boundaries of free speech to the Internet.

What is the recent case on?

- A petition by the People's Union for Civil Liberties (PUCL) came up for hearing.
- The invalidated Sec 66A is being used by the police to register cases based on complaints.
- Police headquarters and prosecutors in various States had not disseminated the effect of the Court ruling among officers manning police stations.
- There were also instances of courts framing charges under Section 66A even after lawyers had cited the 2015 judgment.
- Possibly, police officers may not be aware of the judgment.
- But it cannot be ruled out that the section was also being invoked deliberately as a tool of harassment.
- In January 2019, too, the Court's attention was drawn to the same problem.
- The PUCL has said as many as 745 cases are still pending in district courts in 11 States.

- The Supreme Court termed the continued use of an invalid law as “a shocking state of affairs” and sought a response from the Centre.

What is the way forward?

- Ignorance of the law is no excuse for the citizen.
- It must equally be no excuse for police officers who include invalidated sections in FIRs.
- The current hearing may result in directions to States and the police, as well as the court registries.
- There has to be appropriate advisories to both station-house officers and magistrates.
- Police chiefs and the directorates of prosecution must begin a process of conveying to the lower courts and investigators all important judgments from time to time.

Source: The Hindu, The Indian Express

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