Supreme Court Directions on Hate Speech

Why in news?

A Supreme Court bench has directed the police chiefs of Delhi, Uttar Pradesh and Uttarakhand to take immediate suo motu action against hate speech, by lodging criminal cases without waiting for formal complaints.

What is the case about?

> *According to Law commission report, hate speech is an incitement to hatred primarily against a group of persons in terms of race, ethnicity, gender, sexual orientation, religious belief and the like.*

- The petitioner had highlighted the rising incidents of hate speeches targeting the Muslim community.
- The petitioner said that the total inaction on the part of the police in the regions of Delhi, Uttar Pradesh and Uttarakhand.
- The petitioner alleged that events organised in Delhi and Haridwar in 2021 hosted hate speeches by leaders.

What is the legal framework for dealing with hate speech?

- India does not have a formal legal framework for dealing with hate speech.
- **Section 295A of the IPC** - It defines and prescribes a punishment for deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.
- **Section 153A** - Section 153A penalises promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc, and doing acts prejudicial to maintenance of harmony.
- **Section 505** - Section 505 of the IPC punishes statements conducing to public mischief.
    - **505 (1)** - Making statements conducing to public mischief is an offence.
    - **505(2)** - Making statements creating or promoting enmity, hatred or ill-will between classes is an offence.
    - **505 (3)** - The same offence will attract up to a 5 year jail term if it takes place in a place of worship, or in any assembly engaged in religious worship or religious ceremonies.
- **Section 66A of the Information Technology Act** - It punishes sending offensive messages through communication services when such speech is made online.

Why is hate speech a serious concern?

- In ***Pravasi Bhalai Sangathan v. Union of India (2014)***, the Supreme Court of India quoted from the Canadian Supreme Court's decision in Saskatchewan v. Whatcott (2013).
    - It said that the hate speech places a serious barrier to the full participation of groups such as minority in our democracy.
- **Concerns with hate speech**
    - Infringes the dignity and equality of individuals
    - Creates barriers of mistrust
    - Creates hostility between individuals and groups
    - Plants fears and obstructs normal relations.
    - Increases the caste based violence

What is the Supreme Court order against hate speech?

- **Current order** - The Supreme Court of India has asked the police to be proactive in dealing with hate speech by taking immediate legal action without waiting for a formal complaint.
- The Court has warned of contempt action if the police showed any hesitation in compliance.
- **Previous cases** – In, *Ramji Lal Modi v State of Uttar Pradesh, 1957,* the Supreme Court upheld the law on the grounds that it was brought in to preserve "public order".
- In *Baba Khalil Ahmed v State of Uttar Pradesh, 1960*, the Supreme Court said that "malicious intent" of the accused can be determined not just from the speech in question but also from external sources.
- In, *Ramlal Puri v State of Madhya Pradesh, 1973*, the Supreme Court said the test to be applied is whether the speech in question offends the ordinary man of common sense and not the hypersensitive man.
- In *Baragur Ramachandrappa v State of Karnataka, 2007*, a pragmatic approach was invoked to restore public order by forfeiture of a book over individual interest of free speech.

References

1. The Indian Express | SC directions on hate speech
2. The Hindu | The Supreme Court order against hate speech
3. The Hindu | SC directions to police chiefs

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