# Supreme Court Judgement on MediaOne Case

## Why in news?

The Supreme Court has ruled against the telecast ban imposed by the Union Government on Malayalam news channel MediaOne.

## What is the MediaOne case about?

- **Cancellation of license** - The Information and Broadcasting Ministry (I&B) informed Media One news channel that its broadcast licence had been cancelled citing security reasons.
- **Powers of I&B Ministry** - The powers to regulate content rest only with the I&B Ministry based on the inputs from other ministries, as well as intelligence agencies.
- **Sectors-** Earlier, I&B Ministry had the powers to regulate content across TV channels, newspapers and magazines, movies in theatres and on TV, and the radio, barring the internet.
- The IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, extended its regulatory powers over internet content (digital news platforms and OTT platforms).
- **Emergency powers-** The I&B Ministry adopts emergency powers it has under the new IT Rules to block certain YouTube channels and social media accounts based on inputs from intelligence agencies.

| Sector | Powers of I&B Ministry |
|---|---|
| **TV channels** | The Ministry has the Electronic Media Monitoring Cell, which tracks channels for any violations of the programming and advertising codes mentioned in the Cable TV Network Rules, 1994. |
| **OTT platforms** | For content on OTT platforms too, there is a similar structure like that of TV channels. |
| **Film certification** | The Central Board of Film Certification (CBFC) has a mandate to give a film, a rating, indicating the kind of audience it is suitable for.<br>While it isn't the CBFC's mandate to censor a film, it can withhold giving a rating unless the filmmaker agrees to its suggestions. |
| **Print media** | Based on the recommendations of the Press Council of India, the government can suspend its advertising to a publication. |
| **Websites** | IT rules 2021 allowed the I&B Ministry to issue orders to ban websites based on their content. |

## What has the Kerala High Court inferred in the case?

- The writ petition was filed by Madhyamam Broadcasting Limited, the parent organization of Media One channel.
- The High Court *endorsed the Government's stand* that it was a national security issue

and, therefore, there was no need to observe the *principles of natural justice.*

- The court chose to accept the submission of documents by the government in a *sealed cover*.
- A Division Bench of the Kerala High Court has also dismissed the appeal filed by MediaOne.

## What is the stance of the Supreme Court (SC)?

- **Programme and Advertising Code** - The channel did not violate the Programme and Advertising Code prescribed under the Cable Television Networking (Regulation) Act 1995**.**
- **No evidence** - There was no evidence or material backing of nexus between Madhyamam Broadcasting Limited and Jamaat-e-Islami-Hind (JEIH).
- JEIH is not a banned organization.
- **Article 19(2)** - The SC observed that the channel was not given a chance to defend which violates Article 19(2).
- **Rule of law** - The state is using national security as a tool to deny remedies to the citizens thus violating the rule of law.
- **Proportionality** - The national security considerations assessment not properly put the test of proportionality.
- **Principles of Natural Justice** - The Court observed that there is an inherent value in securing compliance with the principles of natural justice.
- **National security** - Though confidentiality and national security are legitimate aims for limiting procedural guarantee, a blanket immunity from disclosure of all investigative reports cannot be granted.
- **Sealed cover procedure** - Sealed cover proceedings infringes the principle of natural justice and open justice.

## Quick facts

### Principle of Natural Justice

- Natural justice is an expression of *English common law*, and involves a *procedural requirement of fairness*.
- The principles of natural justice are not embodied rules and are not codified.
- They are judge made rules and are regarded as *counterpart of the American procedural due process.*
- The principles of natural justice was constitutionalized in 1978 ruling in "*Maneka Gandhi vs Union of India*".
- In *Ex- Armymen's Protection Services Pvt. Ltd. vs. Union of India & Ors*. (2014) and *Digi Cable Network (India) Pvt vs Union Of India* (2019), the court held that national security concerns overweigh the duty of fairness.

### Test of Proportionality

- The test of proportionality is employed by courts to decide cases where two or more

legitimate rights clash.

- Generally, one right typically prevails at the expense of the other and the court has to balance the satisfaction of some rights and the damage to other rights resulting from a judgement.
- In *Modern Dental College vs State of Madhya Pradesh* (2016), the top court adopted the proportionality test that was reiterated in *K.S. Puttaswamy vs Union of India* (2017).
- Later, Justice Sikri laid down a four-fold test to determine proportionality.
    1. Legitimate goal stage
    2. Suitability or rationale connection stage
    3. Necessity stage
    4. Balancing stage

## Sealed cover jurisprudence

- It is a practice used by the courts of asking for or accepting information from government agencies in sealed envelopes that can only be accessed by judges.
- There is *no specific law* that defines the doctrine of sealed cover.
- The Supreme Court derives its power to use it from
    - **Rule 7 of order XIII of the Supreme Court Rules** – The information can be kept confidential if its publication is not considered to be in the interest of the public.
    - **Section 123 of the Indian Evidence Act of 1872** - Official unpublished documents relating to state affairs are protected and cannot be compelled to disclose.
    - **Other instances** – When the publication of information affects an ongoing investigation or breaches the privacy of an individual, it may be sought in secrecy or confidence.

**References**


1. The Indian Express | Madhyamam Broadcasting Limited
2. The Indian Express | Principles Of Natural Justice
3. Deccan Herald | The proportionality test
4. Bar and Bench | Proportionality Test



SHANKAR IAS PARLIAMENT
Information is Empowering