The Changing Role of Supreme Court

What does Article 19 (1) (a) says?

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- All citizens shall have the right to freedom of speech and expression.
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- The restrictions upon a fundamental right could be imposed only by law. i.e., only an elected legislature could restrict the freedom of speech in the interests of an overwhelmingly important public goal.
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- Also, this restriction could then be challenged before independent courts.
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- Thus, the Constitution protected citizens' fundamental rights through **two layers of safeguards.**
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How Supreme Court's role is changing?

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- In recent months, that the **delicate balancing between rights and public goals has come under immense strain,** however, this time it is because of the Supreme Court.
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- Of late, the Court has begun to redefine its own role under the Constitution, from transforming itself from the guardian of civil rights to a great, overarching moral and political censor.
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- This is a role that the framers of constitution never envisaged. And it runs contrary to the very spirit of our Constitution.
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What are three instances that had happened recently?

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- First, despite the film **‘Jolly LLB2’** was cleared by the Censor Board, the High Court of Bombay found certain scenes in the film “defame” the legal profession.
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- So, it ordered four cuts to be made. The producers moved the Supreme Court, but the SC has refused to intervene or to hear the merits of their case.
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- Second, acting upon a “public interest litigation”, the Court passed an interim order compelling all cinema theaters to play the national anthem.
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- It totally forget to think, is this kind of **compelled patriotism** something it can impose upon India’s free and independent citizens.
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- And lastly, the SC has passed a lot of interim orders, in a case involving sex-determination tests.
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- In the latest order, it **directed internet search engines to block access to websites** (by blocking search keywords), that are involved in someway to sex-determination.
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- The Court’s orders amount to making entire area of the Internet off-limits for everyone, no matter what the purpose is – research, investigation, or curiosity.
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Why these happenings are worrying?

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- The ‘public interest litigation’ began as a movement to democratise access to courts. It discarded traditional rules of evidence and vested vast powers in courts to do justice.
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- But, in 2017, this very dilution of rules and existence of vast powers have become weapons in the hands of courts to cut down rights.
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- Instead of our elected representatives making laws, now, t**he Court has begun to make its own laws** limiting, restricting, and suffocating speech.
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- Another example being, the Madras HC ordered that the teaching of Thirukkural be made compulsory in all schools. Here, again, it was made in the absence of any law.

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- The Supreme Court has indeed reduced us to passive subjects instead of active and thinking citizens by telling us what we can watch; what we can search; and how, when and where we must be patriotic.
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- Thus, this **transformation of the Supreme Court into the Supreme Censor,** is certainly a worrying sign.
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Source: The Hindu

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