Web Content Regulation - Executive and Judiciary

Why in news?

- The Supreme Court transferred to itself all cases pending before HCs relating to web content regulation.
- The Centre informed the Court that the entire process of finalising the laws on regulating social media will be completed by January 2020.

What is the case on?

- The Centre's new draft of Intermediary Guidelines, originally issued in 2011, was made public last year, and comments invited from all sections.
- The government will have to collate and analyse the suggestions and comments received.
- It will then have to notify "extant rules" for effective regulation of internet intermediaries.
- [Internet intermediary refers to a company that facilitates the use of the Internet - Internet service providers (ISPs), search engines, social media platforms.]
- The Centre informed the Court that it would take another 3 months for the above process and complete it by January 2020.
- This comes after the Supreme Court's query on the status of the changes being contemplated in rules to ensure accountability of intermediaries.
- The Court posed the question when it was hearing a plea by Facebook. Click here to know more.
- The petition urged the Court to transfer to itself certain petitions filed in various High Courts for linking social media accounts to Aadhaar numbers.

What is the need for regulation?

- There is an enormous rise in the number of people using the Internet and social media.
- There is also an exponential rise in hate speech, fake news, anti-national activities, defamatory postings, and other unlawful activities using Internet/social media platforms.
- The Internet has emerged as a potent tool to cause unimaginable disruption to the democratic polity.
- The Centre took note of this growing threat by social media platforms to

individual rights and nation's integrity, sovereignty, and security.
- Internet service providers also expressed concerns over unregulated functioning of Facebook Messenger and WhatsApp.

What are the challenges in the process?

- It is for the executive to frame policy on this sensitive matter.
- On the other hand, the question whether social media need weeding out of objectionable content will ultimately require adjudication by the court.
- The provisions on the mandatory disclosure of "originators" of offending messages are a source of worry to social media platforms that use end-to-end encryption.
- Whether it is technologically feasible for the platforms to provide back-door access to law enforcement is uncertain.
- Besides, balancing between requiring access to the originators of encrypted content and respecting individual privacy will be a huge challenge.
- It is also a unique opportunity to test the impact of the K.S. Puttaswamy verdict (2017) on the proposed legal framework.
- [The judgment had declared privacy as a fundamental right.
- It also laid down a proportionality standard to test the validity of restrictions on that right.]
- Other requirements such as proactive removal of offending content through automated tools may have an impact on free speech and expression.

Source: Indian Express, The Hindu

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