**Software Freedom Law Center, India Versus State Of Arunachal Pradesh & Ors**

**Case Number:** Writ Petition (Civil) No.314/2022

**Law Reference:**

**Case Tracking:** Decision Pending

**Region:** Asia and Asia Pacific

**Country:** India

**Type of Expression**: Electronic/Internet-based Communication

**Judicial Body**: Supreme Court

**Type of Law:** Constitutional Law

**Main Themes:** Internet Shutdowns, Telecommunication Suspension,

***Outcome: Add new category to “Decision - Procedural Outcome” of “order only”***

***Status: Suggestion to add a new category of “Order Handed Down” here - it would mark these cases off as different early on the analysis page.***

**Outcome**

On September 9, 2022, the Supreme Court of India passed an order issuing a notice to the Ministry of Electronics and Information Technology in a plea which challenged internet shutdowns to prevent students from cheating during examinations. The court asked the ministry to put in response to indicate whether the protocol for an internet shutdown during exams exists. The court directed the Union government to file a response within three weeks from September 9, 2022 and was listed for hearing on October 20, 2022. The matter remains pending before the Supreme Court of India.

**Factual Background**

On 24 February 2022, the petitioner Software Freedom Law Center filed a public interest petition that challenged the imposition of internet shutdown on grounds of preventing cheating during examinations. The petition had been filed under Article 32 of the Indian Constitution against the state governments of Arunachal Pradesh, Rajasthan, Gujarat and West Bengal. The petitioner in their petition have submitted that, “respondents have adopted an arbitrary and unlawful approach in shutting down the internet without adherence to the procedure established by law.” [para XXV]

The petitioner states that “imposing arbitrary and disproportionate telecom service shutdown” is a violation of fundamental rights guaranteed under Article 14, Article 19 and Article 21 of the Constitution of India. [para 7]

The petitioner states that freedom of speech and expression through internet is a right guaranteed under [Article 19 (1) (a)](https://indiankanoon.org/doc/1378441/) and the same was held by the Supreme Court of India in the case of [Anuradha Bhasin vs Union of India.](https://main.sci.gov.in/supremecourt/2019/28817/28817_2019_2_1501_19350_Judgement_10-Jan-2020.pdf) The petitioner had also filed petitions before the High Court of Calcutta and High Court of Punjab and Haryana on grounds where it challenged the arbitrary imposition of internet shutdowns in the state of West Bengal and Punjab. [para 1]

The petitioner in their prayers have sought that a writ of mandamus directing the Respondent States to: “not suspend Internet services on the ground of preventing cheating in examinations and for such other routine administrative reasons; and produce all orders made by the Respondents bringing in to effect the suspension of telecom and Internet services to prevent cheating in examinations.” [para 35]

**Decision Overview**

The Supreme Court of India in its order dated September 9, 2022 issued a notice to the Ministry of Electronics Communication and Information technology, “to put in an affidavit in response indicating whether there is any Standard Protocol with respect to the grievance raised by the petitioner and, if so, to what extent and how said Protocol is adhered to and implemented.”[[order copy]](https://main.sci.gov.in/supremecourt/2022/6010/6010_2022_1_4_38090_Order_09-Sep-2022.pdf)

In a [reporting](https://www.lawinsider.in/news/sc-asks-centre-to-file-response-outlining-procedures-for-internet-shutdowns) by a legal media house, the bench which comprised of the Chief Justice U.U. Lalit, Justices Ravindra Bhat and P.S. Narasimha took note of the petitioner’s previous filings in the High Courts of Delhi and Calcutta which contested the arbitrary internet shutdown. In the same [article](https://www.lawinsider.in/news/sc-asks-centre-to-file-response-outlining-procedures-for-internet-shutdowns), a reference is made to an oral statement made by Justice Bhat, said that “such violations could be dealt with as they occurred, and this is because the governments may merely repeat the violations.” [The Bench further stated](https://www.thehindu.com/news/national/supreme-court-seeks-centres-response-on-plea-against-internet-shutdown-during-exams/article65869737.ece) that a general declaratory order from the Supreme Court may not help, but “Nevertheless we would like to know from the Ministry about the protocol.”

The Supreme Court listed the matter for hearing on 20 October 2022, and according to the [official site of Supreme Court of India](https://main.sci.gov.in/case-status), the matter was not taken, and the motion hearing remains pending.

**Decision Direction**

Direction inconclusive, as the Supreme Court said, “At this stage, we issue notice only to respondent no.5”

**Global Perspective**

* **National law or jurisprudence**

**Articles:**

Note: These articles were referenced in the petition filed by Software Freedom Law Center, India

1. Article 32
2. Article 19
3. Article 19 (1) (a)
4. Article 19 (1) (b)
5. Article 19 (1) (g)
6. Article 19 (2)
7. Article 19 (6)
8. Article 14
9. Article 21

**Case references:**

Note: These cases were referenced in the petition filed by Software Freedom Law Center, India

1. Anuradha Basin vs. Union of India, (Writ Petition (C) No.1031 OF 2019/1164 Of 2019)
2. Puttaswamy vs Union of India (2019) 1 SCC 1
3. Dhirendra Singh Rajpourohit vs. Government of Rajasthan, (D.B. Civil Writ No. 10304/2018)
4. Haresh Dayaram Thakur v. State of Maharashtra & Others, (2000) 6 SCC 179
5. M. P. Wakf Board v. Subhan Shah (D) By Lrs. & Others, (2006) 10 SCC 696,
6. Commissioner of Income Tax, Mumbai v. Anjum M. H. Ghaswala & Others, (2002) 1 SCC 633
7. State of Uttar Pradesh v. Singhara Singh & Others, AIR 1964 SC 358,
8. People's Union for Civil Liberties (PUCL) v. Union of India, (1997) 1 SCC 301
9. Banka Sneha Sheela vs State of Telangana (2021) 9 SCC 415
10. B.K. Srinivasan v. State of Karnataka, (1987) 1 SCC 658

**Case Significance**

Case Significance: Inclusive as decision remains pending

**Official Case Documents**

1. Writ Petition filed by Software Freedom Law Center, India
2. Order dated September 2, 2022
3. Order dated September 9, 2022

**Reports, Analysis, and News Articles**

1. Sflc.In's Writ Petition Challenging Arbitrary Internet Shutdowns During Examinations In The Supreme Court Of India (2022): <https://sflc.in/sflcins-writ-petition-challenging-arbitrary-internet-shutdowns-during-examinations-supreme-court>
2. On Challenge to Internet Shutdowns During Exams, SC Asks Centre: ‘What Is the Protocol? (2022): <https://thewire.in/law/internet-shutdowns-exams-petition-supreme-court-protocol>
3. Supreme Court seeks IT ministry's response on protocol for internet shutdowns (2022): <https://www.indiatoday.in/law/story/supreme-court-seeks-it-ministry-response-on-internet-shutdowns-1998570-2022-09-09>
4. SC Asks Centre to File Response Outlining Procedures for Internet Shutdowns (2022): <https://www.lawinsider.in/news/sc-asks-centre-to-file-response-outlining-procedures-for-internet-shutdowns>
5. India’s Supreme Court demands government detail internet shutdown rules (2022): <https://www.theregister.com/2022/09/13/india_internet_shutdowns_challenged/>