

Kunal Kamra v. Union of India | Writ Petition (L) NO. 9792 OF 2023

Issues	Justice Dr Neela Kedar Gokhale's Opinion	Justice Gautam Shirish Patel's Opinion	Justice Atul Sharachchandra Chandurkar's Opinion
Whether the Rule 3(1)(b)(v) of the IT Rules 2023 violated Article 19?	Upholds Rule 3(1)(b)(v), viewing it as a measure to prevent misinformation, aligning with freedom of expression limitations under Article 19(2).	Finds Rule 3(1)(b)(v) unconstitutional for violating freedom of speech by imposing self-interested censorship.	Agrees with Patel, arguing that the Rule's attempt to enforce a "right to truth" goes beyond permissible limits under Article 19(2).
Does making the Central Government an arbiter in its own cause violate Article 14?	Believes FCU is necessary and legitimate for identifying misinformation and denies inherent bias due to government-appointed officials.	Objects to the government-controlled FCU, arguing it violates principles of natural justice by making the government a judge in its cause.	Concurs with Patel, expressing that the FCU's role as arbiter violates Article 14 by creating a conflict of interest.
Differential Treatment of Digital vs. Print Media (Article 14)	Does not address differential treatment concerns in detail.	Considers the rule discriminatory as it subjects digital media to scrutiny while exempting print media.	Agrees with Patel, arguing that selective application to digital media is arbitrary and lacks a rational basis under Article 14.
Loss of Safe Harbor for Intermediaries and its 'Chilling Effect' on the Free Speech of the 'User'	Dismisses chilling effect concerns, citing adequate safeguards and judicial recourse for wrongful flagging of content. She held that intermediaries are not excessively burdened and can take reasonable efforts like issuing disclaimers	Held the rule fosters self-censorship by intermediaries and users due to fear of punitive measures. He also held that the Rule strips intermediaries of choice and imposes unreasonable restrictions	Supports Patel, stating the rule's vagueness could cause self-censorship, particularly for intermediaries uncertain of content limits. Supported the view that the Rule creates arbitrary restrictions on digital platforms
Interpretation of terms 'fake', 'false', 'misleading', and 'business of the Government'	Rejected arguments about vagueness, stating terms like "fake," "false," and "misleading" have clear ordinary meanings	Stressed that the terms are overly broad and lack clear guidelines.	Concurred that the terms are vague and susceptible to subjective interpretation.
The Proportionality Test	Finds Rule proportional to its purpose of combating	Concludes the Rule fails all five prongs of the	Echoes Patel's view, stating that vague definitions in the

	misinformation, especially since it exempts satire and opinion.	proportionality test, rendering it unconstitutional.	Rule cause it to fail the proportionality test due to its overreach.
Conclusion	Rule 3(1)(b)(v) is Constitutional	Rule 3(1)(b)(v) is unconstitutional	Rule 3(1)(b)(v) is unconstitutional