

Bill No. 193 of 2018

THE INFORMATION TECHNOLOGY (AMENDMENT)
BILL, 2018

By

SHRI JAGDAMBIKA PAL, M.P.

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further to amend the Information Technology Act, 2000.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Information Technology (Amendment) Act, 2018.

Short title and commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

21 of 2000.

2. In the Information Technology Act, 2000, section 66A shall be omitted.

Omission of section 66A.

STATEMENT OF OBJECTS AND REASONS

Section 66A of the Information Technology Act, 2000 was declared unconstitutional by the Hon'ble Supreme Court in its landmark decision in *Shreya Singhal v. Union of India* in 2015. However, legal database and media reports have shown that section 66A continues to be used by law enforcement agencies including the police, trial courts and even High Courts.

Several Cases that were filed under section 66A before the Shreya Singhal judgement in 2015 continue to be investigated by the police and tried in courts and new cases have also been filed after the judgement, despite the fact that the provision has been declared unconstitutional by the highest court of the land.

Section 66A violates Fundamental Rights guaranteed by the Constitution of India. In the Shreya Singhal judgement, the Supreme Court held that "it is clear that section 66A arbitrarily, excessively and disproportionately invades the right of free speech and upsets the balance between such right and the reasonable restrictions that may be imposed on such right."

In view of aforesaid judgement of the Supreme Court, Cases under section 66A currently being investigated or prosecuted must be quashed and no new cases should be registered under section 66A. Section 66A of the Information Technology Act, 2000, must also be deleted from the statute book.

Hence this Bill.

NEW DELHI;

JAGDAMBIKA PAL

November 27, 2018.

ANNEXURE

EXTRACT FROM THE INFORMATION TECHNOLOGY ACT, 2000

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66A. Any person who sends, by means of a computer resource or a communication device,—

Punishment for sending offensive messages through communication service, etc.

(a) any information that is grossly offensive or has menacing character;

(b) any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will, persistently by making use of such computer resource or a communication device; or

(c) any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages, shall be punishable with imprisonment for a term which may extend to three years and with fine.

Explanation.—For the purpose of this section, terms "electronic mail" and "electronic mail message" means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, images, audio, video and any other electronic record, which may be transmitted with the message.

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further to amend the Information Technology Act, 2000.

(Shri Jagdambika Pal, M.P.)