Blocked Without Explanation

How India's Blocking Regime Dilutes Safeguards and Expands Executive Power

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In recent weeks, several X (Twitter) and Meta users have reported that their posts and accounts were blocked in India following government orders issued under Section 69A of the Information Technology Act, 2000. According to reports, affected users received automated notifications from X stating that their posts had been blocked in response to a legal demand attributed to the Ministry of Electronics and Information Technology, but no explanation was provided for the action. The notifications reportedly stated that the platform was "unable to provide additional information due to legal restrictions," leaving those affected with little clarity about why their content had been restricted.

These blocking orders highlight a broader problem with India's internet blocking regime. Section 69A of the Information Technology Act permits the government to block online information only on specific grounds, such as sovereignty, national security, public order, or the prevention of incitement to offences.

Yet the recent instances of blocking indicate that such actions are not confined to clearly unlawful content but also extend to speech critical of the government. Several users have reported that their restricted content included political commentary and public affairs that were critical of the central government or Prime Minister Modi. While these actions appear targeted at individual posts or accounts, they reflect a broader pattern in India's approach to online regulation. At earlier junctures, such as during the farmers' protests, the government resorted to wholesale blocking of accounts and platforms, affecting journalists, activists, and protest-related networks. The government had even threatened X with legal action, including the arrest of its officials, in response to pushback from the tech giant. As during the farmers' protests, the Indian government is once again facing significant criticism, this time over its diplomatic handling of the Middle Eastern crisis. The recent blocking measures appear to mirror its earlier response. This continuity suggests a sustained reliance on opaque restrictions to manage online speech, particularly where it involves political dissent.

The Power to Block Online Content

Section 69A of the Information Technology Act 2000 bestows upon the Indian government the power to block public access to information on the internet.

It allows the state to issue directions to intermediaries to remove information if it is deemed to be against the interests of sovereignty and integrity of the country, defence and security of the State, friendly relations with foreign states, public order, or prevention of incitement to the commission of a cognisable offence.

The IT (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009 provide the procedure to be followed in case of blocking. Under these rules, a designated officer is appointed by the central government to process blocking requests. Requests submitted by nodal officers of organisations under the Act are examined by an executive review committee chaired by this designated officer to determine whether the content falls within the grounds specified in Section 69A.

The designated officer should identify the intermediary or person hosting the information and issue a notice seeking clarification before blocking. After considering the reply of the concerned party, a blocking order can be issued. The rules also include emergency provisions under Rule 9, which allow blocking without prior notice in urgent situations. While earlier

only the designated officer had the authority to issue blocking orders, the Intermediary Guidelines Rules, 2021, empowered the Ministry of Information and Broadcasting to impose content-blocking orders.

The Problem of Secret Blocking Orders

One of the most controversial provisions in the blocking framework is Rule 16 of the Blocking Rules, which provides strict confidentiality relating to actions taken under the rules. This confidentiality clause, along with the emergency provision, allows the government to block access to information without providing a reasoned public order or notifying the originator of the content. The state, in many instances, also refuses to provide the orders even if the owners of the blocked information file a Right to Information (RTI) petition, citing confidentiality. The lack of a reasoned order makes it very difficult to appeal these orders before the courts.

The use of Section 69A for blocking entire accounts is also problematic. The provision empowers the government to issue orders to take down the content that is "generated, transmitted, stored" by an intermediary, suggesting that its scope is limited to existing information. Blocking entire accounts goes beyond this, as it not only punishes present infringements but also operates as a pre-emptive restriction on future content.

In most of these cases, the government chooses to invoke the emergency provision to avoid due procedures being followed in the event of blocking, including providing notices and conducting a hearing.

What the Supreme Court Permitted and the Subordinate Courts Interpreted

The Supreme Court of India upheld the constitutionality of Section 69A and the blocking rules in the landmark judgment of Shreya Singhal v. Union of India.

The Court held that Section 69A is a narrowly drawn provision accompanied by procedural safeguards. It noted that blocking could only be resorted to when the central government was satisfied that it was necessary to do so on the grounds specified in the statute, which mirror the reasonable restrictions to free speech provided under Article 19(2) of the Indian Constitution. The Court also emphasised that reasons must be recorded in writing before issuing blocking directions.

The Court also emphasised the procedural framework established under the Blocking Rules as another safeguard, which requires the involvement of a designated officer and an examination committee before a final blocking order is issued. These procedures were considered important in ensuring that blocking powers were exercised in a structured and accountable manner and provided the opportunity of judicial review.

The Delhi High Court in Tanul Thakur v. Union of India also emphasised the need for transparency regarding blocking orders. In this case, a satirical website was blocked under Section 69A without providing a hearing notice or a copy of the blocking order. The court directed the government to provide the petitioner with the blocking order and ordered that a post-decisional hearing be granted.

While the Supreme Court has set out procedural safeguards, the Karnataka High Court's shift away from the narrow, safeguards-oriented reading of Section 69A adopted in Shreya Singhal has enabled the government to carry out this level of blocking.

In X Corp v. Union of India, the Karnataka High Court upheld a series of blocking orders that extended not only to specific content but to entire user accounts, treating such measures as preventive and proportionate, considering the nature of online harm. The Court also accepted that confidentiality under Rule 16 could justify withholding detailed reasons and held that notifying the intermediary alone was sufficient, without mandating notice to individual users. It further declined to meaningfully engage with challenges based on proportionality and procedural fairness and limited the platform's ability to contest the orders on behalf of affected users.

While the Court had the opportunity to address the merits of the blocking orders but chose not to, relying solely on the superficial procedural compliance. This expansive interpretation departs from the Supreme Court's characterisation of Section 69A as a narrowly tailored provision with robust procedural

safeguards, and in doing so, risks diluting the very safeguards that formed the basis for its constitutional validity.

Conclusion

The secrecy surrounding blocking orders has significant implications for constitutional rights. Internet blocking directly implicates the freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution of India, which includes the right to disseminate and receive information. When restrictions to free speech are imposed without providing reasons, it becomes very difficult to ascertain if these actions satisfy the conditions under Article 19(2). Transparency in the procedure is also essential to ensure that the limitations on free speech remain narrowly confined. And over time, such opacity creates a chilling effect on online speech, as users self-censor and avoid discussing politically sensitive topics.

Although the Supreme Court has stated that the constitutionality of 69A of the IT Act is due to the procedural safeguards, the application of the emergency provision and the confidentiality clause in the blocking rules essentially bypass these safeguards by blocking judicial oversight over executive orders.

The Karnataka High Court's endorsement of this mass blocking exercise also granted the government the freedom to continue with this approach with impunity.

When individuals are not informed of the reasons behind a restriction or provided with the relevant orders, it becomes nearly impossible to challenge the decision or seek meaningful judicial review. As a result, executive blocking powers operate largely outside public scrutiny.

The Supreme Court has issued notice to the Central Government on a petition filed in March 2025, challenging Rule 16 and Rule 9 of the IT Blocking Rules 2009. The outcome of this case may determine whether India's internet-blocking regime continues to operate in secrecy or moves toward greater transparency and accountability.

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