"FREEDOM OF MEDIA AND THE CURRENT SCENARIO IN INDIA"

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ABSTRACT:

This research is the analysis of the current situation of Indian journalism and the role of government. After the emergence of freedom of press, it became very easy for common people to share their views and to make others understand the pain they are going through. This could have been done only when the source, who was a mediator between the sufferers and the general public was neutral and honest. But as we are witnessing in the current scenario the media or the mediator has just become the puppet in the hands of people, who are in authority.

This research paper deals with the same subject matter and tries to provide effective measures so that the mediator is not deviated from his primary job, that is to provide honest and correct news and not the one for propagating some part's propaganda.

INTRODUCTION:

Articles 19 to 22 of the constitution are grouped together under the heading "Right to freedom". Although freedom of press is not specifically mentioned in article 19(1) (a) of the Indian constitution but in the Constituent Assembly Debates it was made clear by Dr.Ambedkar ,Chairman of the drafting Committee,that their was no need to special mention the freedom of press as the press and an individual were same as far as their right of speech and expression was concerned.[3]

ORIGIN OF CONCEPT OF FREEDOM OF PRESS:

Historically,the origin of the concept of press took place in England. From the earliest times, in the west persecution for the expression of opinion even in matter of science or philosophy was very prominent. But shortly after the emergence of newspaper in 17th

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century, newspaper came to take up the cause of the opposition against monarchical absolutism.

The First Amendment,which protects freedom of the press was adopted on December 15,1791,as part of Bill of Rights.

The Bill of Rights provides constitution protection for certain individual liberties, including freedom of press,freedom of religion and the right to assemble and petition the government.

OBJECTIVES:

1.The main objective of this research paper is to make people aware about the ongoing hypocrisy in the Indian media and them being the puppets of the ruling government.

2. The other objective of this paper is to provide suggestions and remedy to such kind of hypocrisy.

3. check the legality of sedition Law in India as it hinders the freedom of speech and expression to a greater extent.

METHODOLOGY:

This paper is based on Doctrinal research, which is based on legal preposition i.e. the reason for decisions which are legally binding and creating precedents. The sources of data for doctrinal research are reports of courts and conventional legal theories, statutes and enactments, which includes periodicals, web-portals, websites, legal history and judgments.

FREEDOM OF PRESS IN INDIA:

Article 19 (1)(a) of the Indian Constitution does not expressly mention the liberty of press but it has been held that liberty of the press is included in the freedom of speech and expression. The press has no special rights which are not to be given or which are not to be exercised by the citizen in his individual capacity. “The liberty of press” as defined by justice Mansfield,” consists in printing without any license subject to the consequences of law.[4]

Thus, the liberty of the press means liberty to print and publish what one pleases, without previous permission. Thefreedom of press is not confined to newspapers and periodicals. It includes also pamphlets and circulars and every sort of publication which affords a vehicle of information and opinion.

[4] Dr.J.N. Pandey, Constitutional law of India, (central Law Agency, Allahbad-2 edn.56,2019)

In Indian Express Newspaper v. Union of India,speaking about the utility of freedom of press court has observed:[5]

"The expression "freedom of the press" has not been used in Article 19 but it is comprehended within Article 19(1)(a).The expression means freedom from interference from authority which would have the effect of interference with the content and circulation of newspapers.There cannot be any interference with that freedom in the name of public interest.The purpose of the press is to advance the public interest by publishing facts and opinions without which a democratic electorate cannot make responsible judgements.Freedom of the press is the heart of social and political inter-course. It is the primary duty of the courts to uphold the freedom of the press and invalidate all laws or administrative actions which interfere with it contrary to the constitutional mandate."

LEADING CASE LAWS

1.Brij Bhushan v. State of Delhi, AIR 1950 SC 129

Facts and Issues: The question of validity of censorship came up for consideration in the case.In this chief commissioner of Delhi, in pursuance of section 7 of the East Punjab SafetyAct ,1949,issued an order against the printer,publisher,editor of an English Weekly of Delhi , called the Organizer, directing them to submit for scrutiny in duplicate before publication till further orders, all communal matter and news and views, about Pakistan including photographs and cartoons other than those derived from official sources or supplied by the news agencies.

Held:The court struck down the order,observing: the imposition of pre-censorship of a journal is a restriction on the liberty of the press which is an essential part of the freedom of the speech and expression declared by Article 19(1)(a)."

2.Sakal papers v. U.O.I

The Supreme Court in this case held that the state could not make laws which directly affected the circulation of a newspaper for that would amount to violation of freedom of speech.

3.Bijoe Emmanuel v. state of Kerala[6]

On August 11,1986,the Supreme Court overruled the High Court of Kerala in the case of Bijou Emmanuel v. state of Kerala, the court held that expelling the children based on their conscientiously held religious faith violated the constitution of India. And this case gave rise to the concept that silence is also equivalent to speech[7].

[5]Signal's Constitutional-II, tenth edn.2019

[7] Dr.J.N. Pandey, Constitutional law of India, (central Law Agency, Allahbad-2 edn.56,2019)

Press not immune from law in India:

In Express Newspapers v. U.O.I, the validity of the working Journalists Act ,1955, was challenged. The Act was enacted to regulate conditions of service of persons employed in newspaper industry, e.g. Payment of gratuity, hours of work, leave, fixation pf wages etc. It was contended that the Act would adversely affect financial position of newspaper which might be forced to close down and would curtail circulation and thereby narrow the scope for dissemination of information and hence violative of Article 19(1)(a). The Court held the press is not immune from laws of general application or ordinary forms of taxation. Or laws of industrial relations. The Act was passed to ameliorate the service conditions of the workmen in the newspaper industry and therefore the restrictions imposed were reasonable on the right guaranteed by Article 19(1) (a[8])

Position in U.S.A:

Freedom of press is also recognized by the American constitution. Initially, the freedom of press was not expressly provided in the American constitution. The freedom of press was inserted only after the First Amendment of the American constitution. The Amendment prohibited the U.S. congress from making laws which infringes the freedom of press. The First Amendment of U.S. constitution was influenced by the Virginian Declaration of Rights.

Position in U.K:

The parliament is sovereign in the United Kingdom. Unlike, the U.S. India and other states the subjects of U.K. do not possess any guaranteed rights. The freedom of press is also well organized in the U.K. The citizens have full liberty to do anything up to the extent that it does not violate the rule of common law or statue law.[9]

CURRENT SITUATION OF INDIAN PRESS:

Press freedom index-2019 has been released by RSF and India is ranked at 142 out of 180 countries,2 steps down the last year.The countries like Nepal,Nigeria,Bhutan, Uganda,Sri Lanka,Myanmar,Afghanistan, Mozambique, United Arab Emirates have left India far behind in respect to the freedom of press.Its been said that under Narender Modi, India's press is not so free anymore. What is happening in India is evident that thepress which was the fourth pillar of democracy ha become a tool or just a puppet in the hands of these influential Politian's who for their vote bank use them in every manner and the result is

[8] AIR 1958 SC 578.
[9] http://www.legalservicesindia.com/article/217/Freedom-of-press-In-India.html

before us division between the various sections of our society. India's free press has played a very crucial role in protecting this country's democracy since its independence from the British rule in 1947.But now the situation is changing and it is getting very dangerous for the right and honest ones to survive as we can see the Large number of journalists who were attacked and killed brutally .Eleven journalists were killed , 46 attacked , 27 cases of police action ,these are cases of 2017, names of journalists killed are as under:

1.GAURI LANKESH Sep 5, 2017.

2.SANTANU BHOWMICK SEP 20,2017.

3.SUDIP DATTA BHAUMIK Nov 21,2017.

Nowadays attacks on journalists are on a rise and major perpetrators are considered the police,which are followed by politicians and party workers .censorship and surveillance on media also saw a sharp rise in 2017 and since then the condition of the Indian media has be deteriorating and their seems no ray of hope to save the freedom of Indian press from such barbarian authorities and that is the reason Indian media has been dropped from the list and from last year 3 steps down and Afghanistan is higher than India in rank of freedom of press what can be more awful then this?

Senior journalist Krishna prasad has said in his latest interview to THE HINDU, that the Indian journalism is currently going through its worst phase in history,much worse than the situation during the Emergency in the country.

Speaking at the 'press day' programme, organized by the Dharwad District Union of Working journalists (DDUWJ), here on Sunday, Mr. Prasad said that while the Emergency, declared by then prime Minister Indira Gandhi, had a beginning and an end, the current situation of 'undeclared emergency' had neither a date for its start nor a date for its end, which was a matter of concern.[10]

Mr. prasad said that on 'press day', journalists should ponder over whether they were actually reporting what they should have reported and who was preventing them from reporting those stories.

Quoting the former press council of India chairman markandey katju, Mr. Prasad said that the Indian media was now facing three big problems.

"The first one is of diversion from serious to non-serious issuesThe second is dividing people communally and the third is promoting superstition and obscurantism," he said and concluded his speech with a quote by Mahatma Gandhi: "Be the change you want to see".

Quoting from Charles Dickens' A TALE OF TWO CITIES, he said: "As far as journalism is concerned,we are in the best of times. While journalism has grown in size, matter of concern is that press freedom is questioned by all and India has slipped to 138th position in terms of press freedom. Insulting journalism and name-calling has become a trend and 14

[10] https://www-thehindu-com.cdn

journalists, including Gauri lankesh, Shujaat Bukhari, have met been killed while on duty. It is also sad that corruption and blackmailing have become part of journalism[11]."

INTRODUCTION OF SEDITION LAW IN INDIA:

Sedition law was first drafted by British in 1837 and then re-introduced in 1870. It was first used against freedom fighter Bal Gangadhar Tilak in 1897. Bal Gangadhar Tilak wrote some articles in his newspaper "kesari" which were against the ruling ofBritishers. Britishers didn't appreciate the probing questions raised by Tilak and they charged him in the sedition case. Sedition is simply an excuse to cripple dissent and questions that are being raised against the government. In colonial rule, it was used against many freedom fighters including Mahatma Gandhi. After independence, there have been vehement debates over this law but in the end though, the lawmakers agreed to keep sedition in our constitution. In 1951 Jawahar Lal Nehru called this law obnoxious and objectionable but it was still kept in the Indian constitution. The amazing fact is that British themselves revoked this law from their constitution in 2010 but in India this law is constantly being used by the Indian authorities indecisively.

MEANING OF SEDITION:

According to Indian penal code, if a person with his spoken, written words or signs or visual representation expresses hatred, contempt or disaffection against the government then it

will come under sedition. If the person is found guilty of this crime then he can even be penalized with life imprisonment. [12]

SCOPE OF SEDITION LAW IN INDIA:

while giving the kedarnath judgement, the courts said that there is a need to provide some parameters on the unrestricted use of sedition by government as it may result in encroachment of personal liberty.

In another case Balwant Singh vs state of Punjab, the courts ruled that merely shouting 'khalistan Zindabad' is not sedition as it did not lead to violence directly.

Courts have clearly said that until and unless the speech or written words do not lead to violence or agitation in the country, it would not amount to sedition. But this law from the very beginning is being misused by the government as they are given this power which literally says that any dissatisfaction expressed with the government is sedition then it was bound to get misused. And this misuse is not something new it was used and misused by

[11] https://www-thehindu-com.cdn

[12] The Indian Penal Code,1860.

the government of congress as well. In 2016, Bengaluru police reportedly charged amnesty India with sedition when the congress party was in power in Karnataka but later it was found that you can only charge individuals with sedition and not the entire organization. In 2012, seven years later the lives of 9,000 people were booked for sedition in TN'S kudankulam nuclear power project. In 2016, folk singer kovan was held on sedition charges for viral song insulting Jayalalitha. And the recent case of sedition being used against 49 celebrities who were demanding action against the increasing mob lynching in India. In Delhi, there was one case where sedition was used against some activists who were demanding action against Kapil Mishra's speech which led to a pogrom in north-east Delhi. According to the NCRB, there were about 35 cases registered under sedition in 2016 while in 2018, this number rose to 70. In past 5 years, trial has been completed in only 43 cases and only 4 of these cases the judgement lead to conviction.

A photo journalist, Muneeb-ul-islaam from south Kashmir in a interview said that "I have been working as a photographer from past 10 years from south Kashmir. Since the conditions in Kashmir worsened after 5 august(abrogation of Article 370), the financial condition at home kept getting worse. I didn't have any money. There were several expenses at home, so I took this route and for days I worked as a daily-wage laborer".[13]

CONCLUSIONS AND SUGGESTIONS:

Journalists are basically storytellers who chronicle events, whether good, bad or ugly. Their work is to tell stories even if the powers that be find them unpalatable. Journalism as we know was the fourth pillar of democracy, we were told that a journalist is free to report the truth,represent the facts,expose the corruption, write about the brutalities, put forth people's grievances. But it seems that this pillar no longer exists, because the government only wants the media houses to keep highlighting the good work they do and to hide all the loopholes in the administration and if any journalist or any person wants to highlight or try to report the truth, he or she is booked under sedition charges and slowly and steadily we are facing the downfall of Indian journalism like in recent time we can see many journalists are being booked under this draconian law like Masrat Zehra, Peerzada Ashiq, Gowhar Geelani, Meeran Haider ,Safoora Zargar,umar khalid. Conditions are getting worse day by day, the first thing that is needed to be done is to erase this sedition law from our constitution as soon as possible so that the messenger is not killed and that the message is spread throughout the world and that the press is not under any pressure to increase vote bank of a particular party and that this forth pillar of democracy is saved from further decline.

[13]https://www-thehindu-com.cdn