Court No. - 27

Case :- MISC. BENCH No. - 3489 of 2012

Petitioner :- Amitabh Thakur And Another
Respondent :- Union Of India Thr.Secy.Ministry Of Information Technololy
Petitioner Counsel :- Amitabh Thakur
Respondent Counsel :- A.S.G.

Hon'ble Devi Prasad Singh,J.
Hon'ble Saeed-Uz-Zaman Siddiqi,J.

The petitioners, who are regular user of internet facility has approached this Court under Article 226 of the Constitution of India with the grievance that the service providers like Yahoo, Google and other companies as referred in representation dated 15.11.2011 (Annexure No. 1) are not disclosing on the website the name of grievance officer.

According to the petitioners, who appeared in person, the Rule, namely, Information Technology (Intermediaries guidelines) Rules, 2011 framed by the Government contains mandatory provision to disclose the name of grievance officer. For convenience, Rule 11 of the said Rule is reproduced as under:-

"The intermediary shall publish on its website the name of the Grievance officer and his contact details as well as mechanism by which users or any person in violation of rule 3 can notify their complaints against such access or to the computer resources made available by it. The Grievance Officer shall redress the complaints within one month from the date of receipt of complaint."

On the other hand, Dr. Ashok Nigam, Assistant Solicitor General of India submit that the petitioner should have impleaded all the service providers as respondents, who are not complying with the provisions contained in Rule 11 of the aforesaid Rule. Learned Senior Counsel submits that in the absence of name of service providers, no order may be passed by this Court.

We have considered the arguments made by the parties at length.

From the record, it appears that the petitioners have earlier submitted representation dated 24.2.2012 to the Secretary, Ministry of Information Technology, Government of India but failed to get any response. Earlier to it, another representation was submitted on 15.11.2012, copy of which has been annexed as Annexure No. 1 to the writ petition.

A combined reading of the aforesaid representation reveals that the petitioners are aggrieved persons on account of non-compliance of Rule 11 of the aforesaid Rule by the service providers.

The petitioners being users of the internet seem to have been aggrieved on account of non-compliance of the said Rule in the country by the service providers.

Of course, different companies dealing with the subject in case would have been impleaded, then after inviting reply from them, appropriate finding could have been recorded but thing as it stands is that the petitioners had tried to ventilate their grievance to the Secretary, Ministry of Information Technology, Government of India through the representation dated 15.11.2011 followed by 24.2.2012 (supra), it was incumbent on the Secretary, Ministry of Information Technology, Government of India to look into the matter keeping in view the public importance of the issued involved.

In case the allegations are correct, then by not disclosing the name of grievance officer on the website, different companies had deprived the people to ventilate their grievance in pursuance to the aforesaid statutory provisions or Rules referred here-in-above. This is an era of internet. In this country, still we are striving to regulate our system to meet out the requirement of people. Government of India is not only regulatory authority which is bound to follow the Rules but also implement the same throughout the country.

Keeping in view the public interest involved, we direct the Secretary, Ministry of Information Technology, Government of India to decide the petitioners' representation referred here-in-above, within a period of three months from the date of production of certified copy of this order. We hope and expect that the Government of India shall look into the matter and ensure that the Rule 2011 (supra) shall be implemented in this country in its letter and spirit.

Subject to above, the writ petition stands disposed of.

Order Date :- 9.5.2012
Rizvi

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Folio No.	Application Date	Case Type	Case No.	Year	Case filed at	Date of Judgment/Order	Court Fee	No.of Pages
25662 of 2012	14.5.2012	MISB	3489	2012	Lucknow	9.5.2012	15.0	2

Printed/Prepared by	Authenticated by	Date of Issuance
Signature :- 14/05/12	Signature :-	14/5/12
Name :- Jaswant Prasad Choudhary	Name :- Radar Nath	
Designation :- Review officer	Designation :- Section Officer	
Employee No. :- E2970	Employee No. :- 2716	
Date of Printing:- 14.5.2012	Authenticated Copy ready on:14/5/12	