



ORIGINAL RESEARCH PAPER

Law

The Legal Concept of Media Person in India

KEY WORDS: Freedom of Press – Legal Rights and Duties of Media Person – Legislation – International Law- Indian Judiciary- Human Rights – Separate Act of Maharashtra.

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ABSTRACT

Journalism is considered as the FOURTH ESTATE in India. In a general sense, a person related with media can be considered as MEDIA PERSON. Not only Indian legislation but the international law also deals with the rights and duties of the Media Person. The freedom of Media has been one of the sine qua non for the betterment of healthy society and country. The media person is playing a vital role in the nation. This paper revolves round the legal position including the rights and duties of the media person in India.

1. INTRODUCTION :

The PRESS FREEDOM INDEX of India is indicating rank 140 for the year of 2019. It is nothing but the *res ipsa locuiture* regarding the position of Media world in India. Be it print media or electronic media, the media person is always ready to serve TRUE FACT to the people of India. It is the matter of pride for the free INDIA that most of the Media Industry is following the norms of journalism and also possessing the skill of ABC of Journalism. The ACCURACY, BREVITY and CLARITY have always been the LOGO OF THE INDIAN MEDIA INDUSTRY.

Our TIMES OF INDIA or INDIAN EXPRESS or THE HINDU or any other English Media are serving their duties like any FOREIGN COUNTRY MEDIA in the world.

So far as the State of Gujarat is concerned, the DIVYA BHASKAR, the SANDESH, the GUJARAT SAMACHAR, the AKILA, the KUTCHMITRA, the KUTCHUDAY, the NOBAT, all are considered the gems of the world of awareness. All are having their own style in writing. With following the skill of ABC, the KUTCHMITRA cares a lot in its writing, the KUTCHUDAY dares a lot and the NOBAT and the AKILA tries to share the best to spread awareness in the society.

We also cannot ignore the role of electronic media in this regard.

In general sense, the WHOLE TEAM OF MEDIA is collectively responsible for their work and in this sense; the person connected with media can be known as MEDIA PERSON.

The media person is a person who is having rights and duties and like any citizen of India. The media person is also a duty bound person for the legislation declared in this subject.

The truth has always been a true companion of media person, so when a truth reveals, the follower of the truth, the media person, has to bear a lot from the devil. Here, the devil means the person who does not want to reveal the truth. Such devil causes a lot of problem to our angel, the media person. Sometimes our media persons have to lay down their lives for their virtues! Sometimes our media persons have to bear physical and mental tortures for the sake of revealing the truth. Many a times, our media persons have to lose their jobs

on account of exposing such devils!

However, we can see that our media persons are always rendering their pious services towards the society and nation *EVEN AT THE COST OF FACING A GREAT TROUBLE.*

By this paper, I, hereby pay my salute to the media person and try to throw some lights on the legal position of the media person on the eve of WORLD PRESS FREEDOM DAY.

2. MEANING OF MEDIA PERSON :

As per dictionary meaning, the word MASS MEDIA includes NEWSPAPERS, TELEVISION, RADIO and THE INTERNET. As per Collins, the word MEDIA PERSON means A PERSON WHO WORKS IN THE MASS MEDIA. So, the word Media Person means the person who works in any kind of media, such as, newspapers, television, radio and the internet.

So far as the interpretation of a statute is concerned, the only legislation for that purpose, the General Clauses Act is silent regarding the definition of MEDIA PERSON.

However, thanks to the State of Maharashtra that has enacted a separate Act related with Media Person in the State of Maharashtra. The name of the Act is THE MAHARASHTRA MEDIA PERSONS AND MEDIA INSTITUTES (PREVENTION OF VIOLENCE AND DAMAGE OR LOSS TO PROPERTY) ACT, 2017.

MEDIA PERSON : INCLUSIVE DEFINITION

As per the Act, Section 2(b) defines MEDIA PERSON. It says that Media Person is a person whose principal avocation is that of a journalist and who is employed as a journalist, either on regular or contract basis, in, or in relation to, one or more media institutions and includes an Editor, Sub-Editor, News Editor, Reporter, Correspondent, Cartoonist, News-Photographer, Television Cameraman, Leader-Writer, Feature-Writer, Copy-tester and Proof-Reader.

PERSON DOES NOT INCLUDE AS MEDIA PERSON

Section 2(b) also throws some lights on not including a person as media person, such as, (1) Any such person who is employed mainly in a managerial or administrative capacity (2) Any such person who is being employed in a supervisory capacity, performs, either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature.

MEDIA PERSONS

Journalist	Copy-tester	Proof-Reader	Reporter	Correspondent
Cartoonist	News-Photographer	Television Cameraman	Leader-Writer	Feature-Writer
Editor		Sub-Editor	News-Editor	

We can see that 13 are included in the definition of Media Person as per the Maharashtra Act. While any administrative staff or office staff is excluded under the definition.

media by his skill is known as Media Person.

If the other states of the India enact separate Act regarding the Media Person, the meaning of Media Person may vary from state to state!

It means any person directly involves in print or electronic

3. INTERNATIONAL AND DOMESTIC LAW FOR MEDIA PERSON :

The Media Person is playing a significant role, both at national and international level. Even International Law throws a light on the legal position of the Media person.

3.1: INTERNATIONAL LAW ON MEDIA PERSON :

3.1.1. UDHR :

Art.1 says that *ALL HUMAN BEINGS ARE BORN FREE AND EQUAL IN DIGNITY AND RIGHTS.*

Art.19 says that *everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.*

3.1.2 U.N. ACTION PLAN ON HATE SPEECH :

The United Nations Secretary-General Antonio Guterres has thrown some lights on the prevention of Hate Speech in May 2019. This plan is known as *UNITED NATIONS STRATEGY AND PLAN OF ACTION ON HATE SPEECH.* It has been mentioned that *tackling hate speech is the responsibility of all – governments, societies, the private sector, starting with individual women and men. All are responsible, all must act.* By this way, the Media is responsible for the U.N. Action Plan.

3.1.3 INTERNATIONAL CONFERENCE ON PRESS FREEDOM :

International Conference on Press Freedom was organized by UNESCO in the year 2008 to mark the World Press Freedom Day. The then Director-General of UNESCO Mr. Koichiro Matsuura has mentioned on that event that the event focus on the theme of *“PRESS FREEDOM, SAFETY OF JOURNALISTS AND IMPUNITY”.* This conference has declared *MEDELLIN DECLARATION: SECURING THE SAFETY OF JOURNALISTS AND COMBATING IMPUNITY.*

It should be noted that the Netherlands and UNESCO will host the World Press Freedom Conference 2020 in Hague on October 18-20 to end impunity for Crimes against Journalists. Apart from that the *GLOBAL CONFERENCE ON MEDIA FREEDOM* is also organized for the betterment of Media Person. India had taken part in the year 2019.

Chapter	One(SS.1-3)	Two(SS.4-12)	Three (SS.13-22)	Four (SS.23-27)
Detail	Preliminary	Establishment of the Press Councils	Powers and Functions of the Councils.	Miscellaneous

Sec.13 deals with the Objects and functions of the Press Council. It also deals with the provisions for the betterment of media. While Sec.14 deals with the *POWER TO CENSURE.* Any media who violates the norms of journalism may face the procedure of the Press Council. So Sec.15 gives the power of Civil Court as per the Code of Civil Procedure for the proceedings under Sec.14. So this Act is the *MEDIA ETHICS* for the Indian Media World. However, recently, on dated 14th April 2020, the Press Release of the Council has clarified that *ELECTRONIC MEDIA, TV NEWS CHANNELS, SOCIAL MEDIA i.e. WHATSAPP \ TWITTER \ FACEBOOK DO NOT COME UNDER THE JURISDICTION OF THE PRESS COUNCIL OF INDIA.*

The concept of *MEDIA ETHICS* is governed by the *NORMS OF JOURNALISTIC CONDUCT EDITION 2018* by the Press Council of India.

3.2.3 THE INDIAN PENAL CODE :

The Indian Penal Code is having 511 Sections. So far as the Media Person is concerned, he has to work with great zeal and it may be resulted into any offence if due care is not followed. The provisions for *DEFAMATION* as per *Sec.499, Sec.501 for printing or engraving matter known to be defamatory, Sec.502 for selling defamatory matter, Sec.505 for statement creating*

3.1.4 INTERNATIONAL CONVENTION ON THE SAFETY AND INDEPENDENCE OF JOURNALISTS AND OTHER MEDIA PROFESSIONAL :

Recalling the *GENEVA CONVENTIONS* of 12th August 1949, UN Human Rights Council Resolution of 29th September 2016 and the UN General Assembly Resolution of 17th December 2015, that deal with the interest of journalists, the International Federation of Journalists has adopted 22 Articles for the betterment of Media Person.

3.1.5 Other :

Apart from all these, UN Security Council Resolution 1738 (2006), UN Human Rights Council Resolution 27/5 of 25th September 2014 on the safety of Journalists, UNESCO Resolution 29 “Condemnation of violence against journalists of 12th November 1997 and many other international meet regarding the topic of Media Person is itself an evidence of the importance of the Media Person.

The Media Person of any member state of the United Nations is bound to obey such provisions related with the rights and duties of the Media Person.

3.2. DOMESTIC LAW :

As an Indian citizen, the Media Person is bound to obey the law of India. The law related with the Media Person in India have been discussed as under:

3.2.1 THE CONSTITUTION OF INDIA :

The Constitution of India is the *grund norm* as per the Kelson Theory in Jurisprudence. As the Media Person is an individual and citizen of India, the Media Person is bound to follow the principles of the Constitution of India. The Fundamental Rights are the Rights of the Media Person and the Fundamental Duties *vice versa.* Art.14 deals with the Right to Equality and Art.19 deals with *FREEDOM OF SPEECH AND EXPRESSEN.* As per Art.21, *NO PERSON (THE MEDIA PERSON) SHALL BE DEPRIVED HIS LIFE OR PERSONAL LIBERTY WITHOUT THE PROCEDURE ESTABLISHED BY THE STATE.*

The Media Person has to act as per the spirit of the Constitution of India.

3.2.2 THE PRESS COUNCIL OF INDIA ACT :

The Press Council Act has been enacted in 1978 for the purpose of *PRESERVING THE FREEDOM OF PRESS AND OF MAINTAINING AND IMPROVING THE STANDARDS OF NEWSPAPERS AND NEWS AGENCIES IN INDIA.* The Act is having 27 sections and 4 chapters.

enmity between class and other related provisions of IPC deal with the Media Person in his day to day practice.

3.2.4 THE CONTEMPT OF COURT ACT :

The Contempt of Court Act, 1971 deals with Civil and Criminal Contempt. As the Media Person is an individual, he is bound to take care in expressing his views related with court matter, *in absentia of it,* he may have to face Contempt Notice and Procedure as per Sec.12 of the Contempt of Court Act, 1971.

This author has thrown some lights on the *MEDIA PERSON AND THE CONTEMPT OF COURT* in his research paper *THE CONCEPT OF CONTEMPT OF COURT IN INDIA* published in *PARIPEX-INDIAN JOURNAL OF RESEARCH – VOL.7-ISSUE 5-MAY 2018.*

3.2.5 THE MAHARASHTRA MEDIA PERSONS AND MEDIA INSTITUTIONS (PREVENTION OF VIOLENCE AND DAMAGE OR LOSS TO PROPERTY) ACT, 2017 :

There is a separate Act related with the protection of violence of Media Person in Maharashtra known as The Maharashtra Media Persons and Media Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2017 which has published in Gazette on dated 8th November 2019.

The Act is having 9 Sections. Sec.1 deals with Short Title, Sec.2 is the Interpretation Clause which defines 10 words like Media Person, Media Institutes, Newspaper, News Channel, Newspaper Establishments, News-based Electronic Media, News Station, Offender, Property and Violence, while Sec.3 deals with *prohibition of violence*, Sec.4 deals with *penalties*, Sec.5 deals with *investigation of offence*, Sec.6 deals with *cognizance of offence*, Sec.7 deals with *compensation for damage*, Sec.8 deals with *punishment* and Sec.9 says that *the provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.*

So, the violation regarding Media Person is prohibited in Maharashtra State and in doing so a person may face to civil and criminal proceedings. The offender may be punished up to three years imprisonment or fine up to fifty thousand rupees or both. Apart from that the offender may liable for the compensation.

Even the false complaint is not acceptable under this Act.

3.2.6 OTHERS :

By this way, we can see that there are so many legislations deal with the conduct of the Media Person in India. Apart from that, the Media Person should be aware of the legislations which have mentioned below:

- THE CABLE TELEVISION NETWORKS (REGULATION) ACT, 1995.
- THE CABLE TELEVISION NETWORK RULES.
- POLICY GUIDELINES FOR UPLINKING OF TELEVISION CHANNELS IN INDIA ON DATED 5TH FEBRUARY 2011.
- NORMS OF JOURNALISTIC CONDUCT 2019 BY PRESS COUNCIL OF INDIA.
- THE WORKING JOURNALISTS AND OTHER NEWSPAPER EMPLOYEES (CONDITION OF SERVICE) AND MISCELLANEOUS PROVISIONS ACT 1955.
- OTHER RELATED INTERNATIONAL NORMS REGARDING MEDIA.

4. LEGAL RIGHTS OF MEDIA PERSON :

By going through various legislations, we can say that the media person is having such rights:

1. Right to equality.
2. Right to life and personal liberty.
3. Right to free speech and expression.
4. Right to publish article or news.
5. Right against media violence.
6. Right to get compensation in case of violence.
7. Right to know any public matter.
8. Right to file RTI.
9. Right to intervene in breach of human rights of any kind.
10. Right to salary and other benefits as an employee.

5. LEGAL DUTIES OF MEDIA PERSON :

Considering Para 1 to 4 of the research paper, the Media Person is having such duties:

1. Duty to follow the truth and morality.
2. Duty to write and express news carefully.
3. Duty to follow the norms of the Press Council of India.
4. Duty to follow the *FUNDAMENTAL DUTIES* as per the Constitution of India.
5. Duty to follow the guidelines of JUDICIARY regarding Sting Operation.

6. JUDICIARY ON MEDIA PERSON :

Our Indian Judiciary has always been playing a role of the safeguard of Media Rights. However, in any case, if the judiciary finds that the path of the Media Person is not in right direction, our judiciary always sets an example to follow the media norms and our legislation by giving directions as per Art.142 of the Constitution of India.

Some examples are as under :

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6.1 R. RAJGOPAL VS. STATE OF TAMILNADU

This case is also known as *AUTO SHANKAR* Case. In this case, a prisoner who was held for murder had written his autobiography in the prison. It was the narration of the life story of Auto Shankar and his relationship with the prison and other authorities. The autobiography was later to be published as a serial publication by a magazine named *NAKKHEERAN* from Madras. So the authorities who were involved with the life of Auto Shankar had raised a question of publication of that material.

H'ble Justice B.P.Jeevan Reddy had to decide following points:

1. The Freedom of Press vis-A- vis The Right to Privacy of the citizens.
2. The parameters of the right of the press to criticise and comment on the acts and conduct of public officials.

As per Para 22, the respected court considered the foreign case *NEW YORK TIMES VS. UNITED STATES (1971)* and declared that *NO SUCH PRIOR RESTRAINT OR PROHIBITION CAN BE IMPOSED* against the Weekly Magazine.

6.2 SHRI SURYA PRAKASH KHATRI & ANOTHER VS. SMT. MADHUTREHAN & OTHERS

In the month of April 2001, *WAH INDIA* magazine published an article named *JUDGED OUT*. It was on the subject of evaluating the judges of the Delhi High Court by the advocates with mentioning the score and photographs. So, the magazine had to face a contempt procedure. Some quotations of this case are as under:

- The Press plays a vital role in the administration of justice. It is the watchdog to see that every trial is conducted fairly, openly and aboveboard. But the watchdog may sometimes break loose and has to be punished for misbehaviour. ----- Para 3.
- The freedom of Press under our constitution is not higher than that of citizen and that there is no greater privilege attaching to the profession of the Press as distinguished from the members of the public. --- Para 8.

6.3 COURT ON ITS OWN MOTION VS. STATE AND OTHERS : DELHI HIGH COURT : DATE : 21ST August 2008 :

It is the case of *four sting operation* which were telecasted in NDTV in the year 2007 for the BMW Case of New Delhi. In this case it was decided that such sting operation should be verified by other relevant facts.

6.4 ANURADHA BHASIN VS. U.O.I. & ORS. : SC : WP (C) No.1031/2019 :

After modifying Art.367 in Jammu and Kashmir State, to control the situation of J&K State, Section 144 of Cr.P.C. was imposed in the State on dated 5th August 2019. Even the movement of *journalists* was severely restricted and so *THE KASHMIR TIMES* of Srinagar Edition could not be distributed. Hence, the petitioner filed a writ to take necessary steps for ensuring free and safe movement *OF REPORTERS AND JOURNALISTS AND OTHER MEDIA PERSONNAL*. It has been held in *PARA 151* that *journalists are to be accommodated in reporting and there is no justification for allowing a SWORD OF DEMOCLES to hang over the PRESS indefinitely.*

6.5 Others :

In *Indian Express Newspapers vs. Union of India (6\12\1984)* and in *Bennett Coleman & Co. Vs Union of India (1972)* and in many other cases, the Supreme Court of India has expressed that *freedom of press is included in freedom of expression as per Art. 19 of the Constitution of India.*

7. PRESENT SCENARIO :

Despite of much legislation, the Media Person has to bear a lot for maintaining truth. Even in some Media Institutes, the Media Person has to work with nominal pay. So far as the salary and other benefits as an employee, the Media Person has to make compromise in some Media Institutes. We cannot

move our faces on the fact that the Media Person has to bear a lot for exposing social and national evils. *In absentia* of having basic knowledge of law may creates a lot of problem to the Media Person. In such case, the Media Person has to face defamation, contempt of court and other legal procedures.

8. SUGGESTIONS :

1. There must be a separate law in each state like The Maharashtra Media Persons and Media Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2017.
2. The strict action should be taken against the violence of the Media Person.
3. The salary and other benefits should be provided to the Media Person as per the norms and legislations.
4. The basic knowledge of law should be in the part of TRAINING to the Media Person.
5. The Media Person should have the knowledge of new legislations related with Media and for that purpose the Media Person should be acquainted with the GAZZETTE OF INDIA.
6. The Media Institute should periodically organize workshops for the related subjects of Media World.
7. For avoiding defamation or contempt of court or any other proceedings, the Media Person should have the proper evidence regarding his materials. The Media Person should always have evidence based facts.

We all can agree with the words of Former Justice R.M.Lodha (at the function of Award for Excellence for Journalism in 2017 to Ritu Sarin of the Indian Express) that *independent judiciary and independent media are the heart and soul of constitutional democracy, and when these two pillars are strong, the citizens feel empowered and their rights secured.*

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