



Book Review

Cases and Materials on Media Law

Somu C S*

Ram Jethmalani & D S Chopra, *Cases and Materials on Media*
Thomson Reuters, 2012, pages 1671, ISBN-13:9789381082362;
ISBN- 0: 9381082367

The media which is the fourth pillar of the democracy is actively involved in crusades against the ills plaguing the society. Consequently, this process has led to judicial delineation of the legal regime governing the conduct of media industry.

'*Cases and Materials on Media Law*', is a compilation of cases and materials on media law. The book highlights the decisions of the Supreme Court of India on protection of freedom of speech and expression guaranteed under Art.19 (1) (a) of the Constitution. Taking a cue from *Manu Sharma* and *Sahara India* cases, the book emphasises the implications of media's right to freedom of speech.

The book comprises of ten chapters in all and is divided into two parts. The first part, from Chapter I to VIII, presents various judgments relating to media and the press while the second part, comprising of Chapters IX and X, contain legislative enactments concerning media laws. Judicial pronouncements on media such as press, radio, television, internet and telephone are covered in this book.

The authors have made an attempt to define the scope of the freedom of speech and expression under the Indian Constitution by relying on various Supreme Court judgments. The book begins with *Romesh Thappar v. State of Madras*¹ case where the Supreme

* Associate Dean and Head of the Department, School of Law, Christ University, Bangalore; somu.cs@christuniversity.in

¹ A.I.R. 1950 S.C. 124.

Court held that freedom of speech and expression includes freedom of propagation of ideas and that freedom is ensured by the freedom of circulation'. Further, highlighting the 'liberty of press', the court observed that it is an essential part of Article 19(1)(a)². The book also discusses *S. Khushboo v. Kanniammal*,³ to bring out the protection of free speech to quash the criminal proceedings initiated against her. Cases relating to understanding of pre-censorship, right to information⁴ and voters' right to know the antecedents of the candidates⁵ are also provided. Freedom of speech and expression includes the right to acquire and disseminate information which in turn includes the right to communicate through any media, print or audio visual. However, restriction is permissible on such rights. This was the decision of Supreme Court in *Ministry of Information and Broadcasting v. Cricket Association, Bengal*⁶. Broadcasting law in other countries such as United Kingdom, France, Germany, Italy, Austria and USA is also included for a comparative study.

Right to privacy is not an enumerated right in the Constitution. To illustrate the right to informational privacy, the case relating to telephone tapping⁷ is included, wherein the court held that the right to privacy is part of the right to life and it would include telephone conversation at home/office. Telephone tapping also tantamount to infraction of Art.19 (1)(a) of the Constitution unless it comes within reasonable restrictions under Art.19(2). When a person talks on telephone, he is exercising his right to freedom of speech and expression.

Art.19(2) of the Constitution empowers the state to impose reasonable restrictions on freedom of speech and expression on grounds of sovereignty and integrity of India, security of the state,

² Brij Bhusan v. State of Delhi, A.I.R. 1950 S.C. 129.

³ A.I.R. 2010 S.C. 3196.

⁴ In Re: Noise Pollution, A.I.R. 2005 S.C. 3136.

⁵ P.U.C.L. v. Union of India, A.I.R. 2003 S.C. 2363.

⁶ A.I.R. 1995 S.C. 1236.

⁷ P.U.C.L. v. Union of India, A.I.R. 1997 S.C. 568.

friendly relations with foreign states, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.

Three important cases have been provided in the book to highlight the government's authority to impose restrictions on freedom of speech and expression. Authors have quoted different cases to underscore the legal position to questions such as what does 'in the interest of public order' mean.⁸ The question what constitutes reasonable restrictions⁹ is sought to be answered through another case.

The book also covers cases relating to defamation. Most of the cases are taken from criminal law journals and also from cases relating to defamation under Indian Penal Code. The book discusses several cases relating to contempt of court. A fair and reasonable criticism of a judgment is not contempt.¹⁰

The book has used few cases to demonstrate how judiciary seeks to strike a balance between free speech and indecent speech. The book contains cases where judiciary has applied *Hicklin's test*¹¹ to determine what constitutes 'obscenity'.

Parliamentary privileges and freedom of expression is another area covered in the book. Cases provided illustrate the conflict between privileged communication and its effect on citizens' freedom of speech. After going through the cases, one might wonder how well they apply to live television broadcasting.

Authors seem to be emphasizing on 'trial by media' cases. Unfortunately, they do not have sufficient number of cases in this section. The authors have used famous *Jessica Lal murder* case, where Manu Sharma was tried and convicted for murder, to

⁸ Superintendent, Central Prison Fategarh v. Dr. Ram Manohar Lohia, A.I.R. 1960 S.C. 633.

⁹ State of Madras v. V.G. Row, A.I.R. 1952 S.C. 196.

¹⁰ Hari Singh Nagra v. Kapil Sibal, A.I.R. 2010 S.C. (Supp.) 55.

¹¹ (1868) 3 Q.B. 360.

illustrate the views of the court on the role of media.¹² Another case is related to sting operations by television channels.¹³

Authors effort in bringing out a compendium of cases and materials on media law is commendable. Compared to other jurisdictions, books of this genre are very rare in India. Authors could have added notes and questions, for readers to ponder over, at the end of each chapter. This would have enhanced the value of the book. The book is a valuable collection for both students and teachers of media law, constitutional law and administrative law.

¹² Sidharth Vashist v. State (NCT of Delhi), A.I.R. 2010 S.C. 2352.

¹³ R. K. Anand v. Registrar, Delhi High Court, [2009] 11 S.C.R. 1026.