D-45589/26

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. _____OF 2026
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

DIGITAL NEWS PUBLISHERS ASSOCIATION & ANR. ...PETITIONERS

VERSUS

UNION OF INDIA & ANR. ...RESPONDENTS

WITH

I.A. NO. 322444/26 OF 2026

APPLICATION FOR AD-INTERIM EX-PARTE STAY

AND

WITH

I.A. NO. 322440/26 OF 2026

APPLICATON FOR CONDONATION OF DELAY IN RE-FILING

VOL -I (Page No. 1-344)

FILED ON
29 JUL 2026
SUPREME COURT OF INDIA

PAPER BOOK

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ADVOCATE FOR THE PETITIONERS: MANIPUDI VENKATARAMA MUKUNDA

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VOL -II (Page No. 345-698)

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24 JUL 2026
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PAPER BOOK

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ADVOCATE FOR THE PETITIONERS: MAMIDIPUDI VENKATARAMA MUKUNDA

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'A'

IN THE SUPREME COURT OF INDIA
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OFFICE REPORT ON LIMITATION

1. The Petition is/are within time.

2. The petition is barred by time and there is delay of _____ days in filing the same against order dated _____and petition for condonation of _____ days delay has been filed.

3. There is delay of 48 days in re-filing the Petition and petition for condonation of 48 day's delay in re-filing has been filed.

BRANCH OFFICER

PLACE: NEW DELHI

DATED: 06.10.2026

"A-1"

PROFORMA FOR FIRST LISTING

SECTION:

The case pertains to (Please tick/ check the correct box):-

□	Central Act: (Title)		
□	Section:		
□	Central Rule: (Title)		**N.A.**
□	Rule No(s):		**N.A.**
□	State Act: (Title)		**N.A.**
□	Rule No(s):		**N.A.**
□	Impugned Interim Order: (Date)		**N.A.**
□	Impugned Final Order: (Date)		**N.A.**
□	High Court: (Name)		**N.A.**
□	Names of Judges:		**N.A.**
□	Tribunal/ Authority: (Name)		**N/A**
1.	Nature of matter:	[_/]**Civil**	**Civil**
2.(a)	Petitioner/ appellant:		**DIGITAL NEWS PUBLISHERS ASSOCIATION & ANR.**
(b)	e-mail ID:		**N.A.**
(c)	Mobile phone number:		**N.A.**
3.(a)	Respondent:		**UNION OF INDIA & ANR.**
(b)	Counsel for Respondent before High Court		**N.A.**
(c)	Mobile phone number:		**N.A.**
4.(a)	Main category classification:		**18 Ordinary Civil Matter**
(b)	Sub classification:		**1807 - Others**
5.	Not to be listed before:		**N.A.**
6a.	Similar disposed of matter with citation, if any & case details:		**No Similar matter is disposed of**
6b.	Similar pending matter with case details		Lead Matter: Venkatesh Nayak v Union of India, W.P. (C) 177/2026

		i.News Laundry Media v Union of India, W.P. (C) 655/2026Vide Order dated 25.06.2026, matters are coming up on 03.08.2026. ii. Reporters Collective Trust & Anr v Union of India, [WP (C) 211/2026 iii. National Campaign For People's Right to Information v Union of India & Ors [WP (C) 212/2026] iv. Geeta Seshu v Union of India, [WP(C) 275/2026] v. Anjali Bharadwaj v. Union of India [W.P.(C) 286/2026] vi. Foundation for Media Professionals & Anr v Union of India, [WP (C) 447/2026 vii. DigiPub India News Foundation v. Union of India [W.P.(C) 722/2026]			
7.	Criminal Matters:	**NO**			
(a)	Whether accused/convict has surrendered:			[ ]Yes	[**X**]No
(b)	FIR No.	**X**	Date:	**X**	
(c)	Police Station:		**N.A.**		
(d)	Sentence Awarded:		**N.A.**		
(e)	Sentence Undergone:		**N.A.**		
(f)	Whether any earlier case between the same parties is filed		**N.A.**		
(g)	Particulars of the FIR and Case		**N.A.**		
(h)	Whether any bail application was preferred earlier and decision thereupon:		**N.A.**		
8:	Land Acquisition Matters:				
(a)	Date of Section 4 notification:		**N.A.**		
(b)	Date of Section 6 notification:		**N.A.**		
(c)	Date of Section 17 notification:		**N.A.**		
9.	Tax Matters: State the tax effect:		**N.A.**		
10.	Special Category (first petitioner/appellant only):				

	(i) [**X**] Senior citizen > 65 years	(ii) [**X**] SC/ST
	(iii) [**X**] Woman/child	(iv) [**X**] Disabled
	(v) [**X**] Legal Aid case	(vi) [**X**] In custody
11.	Vehicle Number (in case of Motor Accident Claim matters):	**NO**

Date: 06.10.2026

M.V. Mukunda

[MAMIDIPUDI VENKATARAMA MUKUNDA]
Advocate for the Petitioners
Code No. 4332

SYNOPSIS

This Writ Petition under Article 32 seeks to challenge specific provisions of the Digital Personal Data Protection Act, 2023 (***"The DPDP Act"/ Impugned Act"***) and the Digital Personal Data Protection Rules, 2025 (***"The DPDP Rules"/ "Impugned Rules"***) to the extent they are inconsistent with Articles 14, 19(1)(a), Article 19(1)(g), and Article 21 of the Constitution of India.

At the outset, in the absence of an exemption for journalistic purposes, the Petitioners submit that the DPDP Act and the DPDP Rules are in complete contravention of the law laid down by this Hon'ble Court in *Justice K.S. Puttaswamy v. Union of India (I), (2017) 10 SCC 1* ("**K.S. Puttaswamy (I)**"). This is because they *impermissibly restrict* the fundamental right to information and freedom of speech and expression protected under Article 19(1)(a) of the Constitution of India, in conflict with the *ratio* of *K.S. Puttaswamy*.

It is prayed that Sections 7, 17(2), 18, 19, 27, 29, 36, 37, 44(3) of the DPDP Act and Rules 16, 17, and 23 of the DPDP Rules framed under Section 40 be declared void to the extent they are in contravention of rights under Part III of the Constitution.

The Sections mentioned above fail to provide any exemption in favour of journalistic activity as a distinct class of processing, entitled to constitutional protection under Article 14 and 19(1)(a) of the Constitution of India and threaten the full spectrum of journalistic activity carried out by journalists, ground reporters, citizens, whistleblowers, RTI activists, and other stakeholders, and strikes at the core of our democratic framework and runs contrary to the basic tenets of the Constitution of India. Publishers, editors, reporters and correspondents are, in consequence, brought within a regime of notice and prior

consent, compelled erasure, and verifiable consent, obligations that cannot be reconciled with the ordinary functioning of the press.

Further, Section 36 of the DPDP Act, read with Rule 23 and the Seventh Schedule of the DPDP Rules, vests in the Central Government an unbridled and standardless authority to requisition any information from any Data Fiduciary or intermediary, unaccompanied by judicial oversight, any requirement of necessity or proportionality, or notice to the affected Data Principal. Such a power is capable of being turned to the identification and targeting of journalistic sources and is thus constitutionally infirm.

Section 44(3) of the DPDP Act, by amending Section 8(1)(j) of the Right to Information Act, 2005, places every category of "personal information" beyond the reach of disclosure, without regard to whether it relates to a public activity, pertains to a public official acting in an official capacity, or stands justified by the larger public interest. The amendment thereby dismantles a balancing mechanism between the right to privacy and the right to information that has operated, and been judicially affirmed, for two decades.

These provisions, taken collectively, constitute a disproportionate and excessive curtailment of the fundamental right to free speech and expression and the implicit right to know and access information as recognized under Article 19(1)(a). The DPDP Act creates restrictions on the fundamental right to free speech and expression in relation to the dissemination of news which are not referable to the specific grounds under Article 19(2). Further, by amending the Right to Information Act 2005, the DPDP Act has created an absolute bar on the seeking of information relating to public offices and has privileged the fundamental right to privacy of public officials over the fundamental right of the

citizen to know matters of public importance. The present Petition may be tagged with several connected matters pending before this Hon'ble Court wherein similar provisions of the DPDP Act challenged herein are impugned, and Notices have been issued by this Hon'ble Court. The Lead matter is ***Venkatesh Nayak v Union of India, W.P. (C) 177/2026***.

The Petitioners:

The Petitioners are an association of digital news publishers who primarily disseminate news across a range of media. Petitioners are directly aggrieved by the Impugned provisions in their capacity as journalists, creators, reporters, and publishers of news. The Petitioner-Association represents the collective interest of journalists and reporters on the ground who gather and publish information vital to the functioning of democracy. DNPA is a conglomerate of diverse legacy news organizations. DNPA further serves as a self-regulatory body for its members and works to strengthen ethical standards, promote responsible journalism, encourage cooperation among members, and safeguard the credibility of digital news dissemination.

The Petitioner No. 2, Ms. Yukta Mudgal, is an independent journalist from New Delhi and is directly impacted by the impugned legislative enactments assailed under this Petition. She is an independent and investigative journalist who reports on financial matters affecting governance. She is based out of Delhi and disseminates information over various digital platforms. If the provisions of the DPDP Act are made applicable, her ability to obtain information and disseminate it will be at the mercy of the Data Principal and the State.

Amendment to Section 8(1)(j) of the Right to Information Act, 2005 (RTI Act)

The amendment to Section 8(1)(j) of the RTI Act, not only restricts the dissemination of news but also places controls in the nature of pre-censorship,

which has effectively eviscerated the ability of journalists to access information of a personal nature having a bearing on issues of public interest. Under Section 44(3) of the DPDP Act challenged herein, Section 8(1)(j) of the RTI Act has been *substituted* by creating a blanket ban on seeking information of a personal nature, irrespective of the fact that it is necessary for public interest.

From the perspective of investigative journalism, information which may be classified as personal data often has a crucial connection to public affairs and open governance. For this reason, journalists take recourse under the RTI Act to obtain information otherwise inaccessible. Under the unamended RTI Act, personal information could be denied only when "t*he disclosure of which has no relationship to any public activity or interest*". As a corollary, personal information which has a bearing on public interest is mandated by law to be correctly disclosed to an applicant/journalist as held by this Hon'ble Court in *K.S. Puttaswamy v Union of India,* (2017) 10 SCC 1 and *Supreme Court of India v Subhash Chandra Agarwal,* (2020) 5 SCC 481. Paragraph 53 which expressly validated Section 8(1)(j). The Constitution Bench in *Subhash Chandra Agarwal,* while referring to *KS Puttaswamy* stated that the unaamended Section 8(1)(j) embodied a principle of the fundamental right to know and balanced it with the privacy of holders of public office. However, this constitutional principle has been amended out of existence by Section 44(3), which prohibits the disclosure of information which relates to personal information. Amending Section 8(1)(j) of the Right to Information Act, 2005, places *all* categories of "personal information" beyond the reach of disclosure, without regard to whether it relates to a public activity, pertains to a public official acting in an official capacity, or stands justified by the larger public interest. The amendment thereby dismantles a balancing mechanism between the right to privacy and the right to information that has operated, and been judicially affirmed, for two decades.

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When Judgments of this Hon'ble Court, laid down by Constitution Benches no less, have affirmed the constitutional necessity of Section 8(1)(j) of the RTI Act, Parliament was not competent to overrule these Judgments by an Amendment to the RTI Act through the present enactment. If Parliament felt the necessity to overrule a Judgment of this Hon'ble Court, it could have done so by removing its basis [*Prithvi Cotton Mills*].

Absence of an exemption for journalistic activities:

Sections 5, 6, 7, 9 and 12 of the DPDP Act, read with Section 17 fail to provide any exemption in favour of journalistic activity as a distinct class for processing, entitled to constitutional protection under Article 14 and 19(1)(a) of the Constitution of India. Publishers, editors, reporters and correspondents are, in consequence, brought within a regime of notice and prior consent, compelled erasure, and verifiable parental consent, obligations that cannot be reconciled with the ordinary functioning of the press.

It is not merely the fundamental right to speech and expression and dissemination of information owing to freedom of the press which has been set at nought by the aforesaid provision, but the DPDP Act places myriad restrictions in the manner in which information is *accessed*, *processed*, and *disseminated*.

The DPDP Act regulates persons/entities seeking to process "personal data" in a digital format. The Statement of Objects of the DPDP Act was to provide for the protection and security of personal data of users. Section 3(c) excludes the applicability of the DPDP Act to personal data for personal and domestic uses and personal data which is caused to be made publicly available by the Data Principal to whom such data relates or a person obligated under law to make such

personal data public. Not all data is, however, "publicly available". The DPDP Act lays down a detailed procedure to be followed by the person seeking to "process" personal data, or as Section 2(i) defines, a person who *determines the purpose and means of processing of personal data* (***"Data Fiduciary"***). Further, the DPDP Act also contemplates consent to be obtained from the person as defined under Section 2(j) as the individual to whom the personal data relates (***"Data Principal"***). Sections 5 and 6 create a regulatory framework as to the manner in which personal data is to be obtained and how this information is to be processed is also closely controlled by the Data Principal. The Data Fiduciary is obligated to obtain Consent under Section 6 from the Data Principal by issuing a Notice in terms of Section 5. In other words, the Data Principal can exercise censorial control over the manner in which information is processed and disseminated. The Data Principal is also empowered to exercise control over the personal data by withdrawing consent at any time. However, this framework does not apply to the legitimate uses identified in Section 7 or the exemptions under Section 17(2). The fundamental grievance of the Petitioners is that persons or entities like journalists or media publishers who exercise a fundamental right under Article 19(1)(a) are not exempted from the purview of the DPDP Act under Section 7 and 17(2). Initially, previous Bills of the DPDP Act and contemporaneous legislative documents clearly envisaged a journalistic exception, without which reporting and right to information would be meaningless. Furthermore, in the absence of the exemptions, the entire scheme under Chapter II of the DPDP Act will constitute unreasonable restrictions upon journalists in the exercise of the fundamental right to freedom of speech and expression and practice any profession or to carry on any occupation, trade or business.

From a journalistic standpoint, reporting on current affairs which entails the uncovering of personal data having a bearing on public affairs and public interest

will be frustrated if an investigative journalist or a news publisher who seeks to expose corruption or misconduct in public affairs is legally required to take consent under Section 6 from the very person who is sought to be investigated. The DPDP Act imposes onerous conditions governing how information is to be disseminated and how access is obtained. This Hon'ble Court in *ADR v Union of India* has held that the fundamental right to know cannot be sacrificed at the altar of privacy, which is only the ostensible object of the DPDP Act.

An unreasonable classification: Section 17 and 7 of the Impugned Act

The very classification created under Section 17(2) of the DPDP Act is arbitrary and underinclusive. While information directed at securing an informed citizenry through journalism is not part of the exceptions, personal data relating to "research, archiving, and statistical purposes" which stands on a similar footing under Section 17(2)(b) is protected. While Sections 17(1)(c) and Section 17(2)(a) exempt the application of the DPDP Act to processing of personal data by the State for purposes of enforcing criminal laws, no exemption is given to activities of news publishers or journalists which seek to achieve the same purpose, i.e. the detection of any corruption or misconduct in public life. Under Section 17(3), arbitrary discretion is conferred upon the Central Government to exempt a class of Data Fiduciaries, "including start-ups", to whom Section 5 and sub-sections (3) and (7) of Sections 8, 10, and 11 shall not apply. Hence, the classification created by Section 17(2) violates Article 14.

Conferment of judicial power on the Data Protection Board of India:

The DPDP Act contemplates the creation of a Data Protection Board of India ("***Board***") under Chapter V of the DPDP Act. Section 18 establishes the Board. The Chairperson and members under Section 19 are selected by the Executive. There is no requirement for any judicial member under Section 19(3). All that is

required are those with a special knowledge or "practical experience" in fields of "*data governance, administration or implementation of laws related to social or consumer protection, dispute resolution, information and communication technology, digital economy, law, regulation or techno-regulation, or in any other field*". This gains importance because under Section 28(7) the Board has been vested with the powers of a Civil Court for summoning persons, receiving evidence by affidavit, inspecting data, books of accounts, documents and such other prescribed matters. Under Section 27(1)(a) to (d), adjudicatory powers have been conferred upon the Board to inquire into personal data breaches, breach of statutory obligations by a Data Fiduciaries, etc. and impose penalties. Such an adjudication implicates fundamental rights. It is inconceivable and constitutionally impermissible to delegate judicial power to an executive body.

Arbitrary power conferred* to Central Government *under Section 36 and 37

The powers conferred upon the Central Government under Sections 36 and 37 of the DPDP Act vest an inherently arbitrary discretion upon the Central Government, authorizing it to require the Board and any Data Fiduciary, or intermediary to furnish information as it may call for. The provision itself is vague and lacks any conditions for the manner in which such a power is to be exercised, rendering it manifestly arbitrary. Section 36 of the DPDP Act, read with Rule 23 and the Seventh Schedule of the DPDP Rules, vests in the Central Government an unbridled and standardless authority to requisition any information from any Data Fiduciary or intermediary, unaccompanied by judicial oversight, any requirement of necessity or proportionality, or notice to the affected Data Principal. Such a power is inherently capable, being turned to the identification and targeting of journalistic sources and is thus constitutionally infirm.

Section 37(1) of the DPDP Act contains an even more dangerous power exercisable by the Central Government to block access by the public *"to any information generated, transmitted, received, stored or hosted"* in the interests of the general public. Free speech cannot be restricted "in the interests of the general public" which is a reasonable restriction under Article 19(6). [***See Shreya Singhal v Union of India, (2015) 5 SCC 1].***

Insofar as news publishers and journalists are concerned, the DPDP Act becomes constitutionally suspect if it is applied to activities aimed at securing personal data for the purposes of participatory democracy and open governance. To include journalists within the dragnet of the Act and its provisions whereas those who are similarly situated are excluded from its purview is a case of hostile discrimination. If the DPDP Act in its current form is made applicable to news publishers and journalists, the provisions are liable to be declared void under Article 19(1)(a) and Article 19(1)(g) r/w Article 21. Such a consequence would not follow if Journalistic activity were exempt from the DPDP Act.

LIST OF DATES

16.12.2002	The Parliament enacted the Freedom of Information Act, 2002, with the object of providing citizens a statutory right to access information held by public authorities and imposing obligations upon public authorities to maintain, catalogue, index and make available records in accordance with the provisions of the Act. However, the said Act never came into force as the date from which the Act should come into force, was not notified in the Official Gazette.

06.01.2003	The Freedom of Information Act, 2002 (Act No. 5 of 2003) received the assent of the Hon'ble President of India and was notified and enacted. The objective of the act was as follows: *"An Act to provide for freedom to every citizen to secure access to information under the control of public authorities, consistent with public interest, in order to promote openness, transparency and accountability in administration and in relation to matters connected therewith or incidental thereto."*
15.06.2005	The Parliament passed the Right to Information Act, 2005, replacing the Freedom of Information Act, 2002 and establishing a statutory regime securing citizens' right to access information held by public authorities. The Preamble of the act reads as follows: *"WHEREAS the Constitution of India has established democratic Republic;* *AND WHEREAS democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;* *AND WHEREAS revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;*

	AND WHEREAS it is necessary to harmonise these conflicting interests while preserving the paramountcy of the *Now. THEREFORE, it is expedient to provide for furnishing certain information to citizens who desire to have it."* The Preamble to the Right to Information Act, 2005 (Act No. 22 of 2005) makes it amply clear that the objective and legislative intent underlying the enactment of the said statute was to secure transparency and accountability in the functioning of public authorities by enabling citizens to access information held by the State and its instrumentalities, while harmonising disclosure obligations with competing public interests including preservation of confidentiality of sensitive information.
12.10.2005	The Right to Information Act, 2005 came fully into force across India.
12.10.2012	The Report of the Group of Experts on Privacy chaired by Justice A.P. Shah was released, recommending a comprehensive statutory framework governing privacy and personal data protection in India. The report covered international privacy principles, national privacy principles, rationale and emerging issues along with an analysis of relevant legislations/Bills from a privacy perspective.
24.08.2017	The Hon'ble Supreme Court in Justice K.S. Puttaswamy (Retd.) v. Union of India (I), (2017)10 SCC 1, recognised the right to privacy as a fundamental right flowing from Article 19(1)(a) and

	Article 21 of the Constitution. The fundamental right to privacy was found to be traceable to various statutory enactments such as the Telegraph Act, 1885 and the Indian Post Office ACt, 1898. Pertinently, both these legislations carved out exceptions for the interception of communications in public interest notwithstanding that they were personal in nature.
July 2017	The Ministry of Electronics and Information Technology constituted the Committee of Experts on Data Protection chaired by Justice B.N. Srikrishna to examine issues relating to data protection and recommend a legislative framework
27.07.2018	The Justice B.N. Srikrishna Committee submitted its report titled *"A Free and Fair Digital Economy: Protecting Privacy, Empowering Indians"*, along with the Draft Personal Data Protection Bill, 2018. The report was based on the fundamental belief shared by the entire Committee that if India is to shape the global digital landscape in the 21st century, it must formulate a legal framework relating to personal data that can work as a template for the developing world.
27.07.2018	The draft Personal Data Protection Bill, 2018, proposed a comprehensive statutory framework governing protection of personal data in India through establishment of an independent Data Protection Authority of India, specification of rights of data principals and obligations of data fiduciaries, regulation of cross-border transfer of personal data, and creation of a dedicated adjudicatory and appellate framework providing for appeal against orders of the Appellate Tribunal to the Hon'ble Supreme

	Court on substantial questions of law. The draft Personal Data Protection Bill, 2018 provided exemption for "Journalistic Purposes" under Section 47.
13.11.2019	A Constitution Bench of this Hon'ble Court delivered judgment in CPIO, Supreme Court of India vs Subhash Chandra Agarwal, (2020) 5 SCC 481, reaffirming that the right to information is rooted in Article 19(1)(a) of the Constitution and upholding the constitutional validity of the unamended Section 8(1)(j) of the RTI Act. This Hon'ble Court held that neither the right to privacy under Article 21, nor the right to information under Article 19(1)(a) is absolute, and that competing interests of transparency in public office and the protected personal interest of the public functionaries must be balanced on a case-by-case basis by applying the test of proportionality to strike the constitutionally required balance between privacy and the right to know. This judgment specifically recognised that the unamended Section 8(1)(j) of the RTI Act, embodied a legislatively mandated measure of proportionality by requiring the Public Information Officer or appellant authority to assess whether larger public interest justified disclosure of personal information.
11.12.2019	The draft Personal Data Protection Bill, 2019 was introduced in the Lok Sabha and referred to a Joint Parliamentary Committee (JPC) for detailed examination. The Bill sought to provide for protection of personal data of individuals, create a framework for processing such personal data, and establish a Data Protection Authority for the said purpose. The draft Personal Data Protection Bill, 2019 also provided

	exemption for Journalistic Purposes" under Section 36 (e).
16.12.2021	The Joint Parliamentary Committee ("JPC") submitted its Report on the Personal Data Protection Bill, 2019 and presented a revised version of the proposed legislative framework titled the Data Protection Bill, 2021. The draft Data Protection Bill, 2021 continued to provide exemption for Journalistic Purposes" under Section 36 (e).
03.08.2022	The Union Government withdrew the Personal Data Protection Bill, 2019, from the Parliament following consideration of the JPC Report and indicated its intention to introduce a revised comprehensive data protection framework.
18.11.2022	The Respondent No.2 released the draft Digital Personal Data Protection Bill, 2022 for public consultation, proposing a revised statutory framework governing protection of digital personal data in India following withdrawal of the Personal Data Protection Bill, 2019. The draft Digital Personal Data Protection Bill, 2022 proposed the constitution of a "Data Protection Board of India" as the adjudicatory authority under the statute in place of the earlier framework providing for an independent Data Protection Authority, and further provided that appeals against orders of the Board would lie before the jurisdictional High Courts, thereby reflecting a material shift in the institutional and appellate architecture from that contemplated under the Personal Data Protection Bills of 2018, 2019 and 2021. Significantly, unlike earlier versions of the Personal Data Protection Bills of 2018, 2019 and 2021 which contained express

	statutory exemptions for processing of personal data for journalistic purposes, the draft Digital Personal Data Protection Bill, 2022 did not retain a specific exemption for journalistic activity and instead contemplated exemptions to be notified by the Central Government.
03.08.2023	The Digital Personal Data Protection Bill, 2023 was introduced in the Lok Sabha.
07.08.2023	The Digital Personal Data Protection Bill, 2023 was passed in the Lok Sabha.
09.08.2023	The Digital Personal Data Protection Bill, 2023 was introduced and passed by the Rajya Sabha.
11.08.2023	The Digital Personal Data Protection Act, 2023 received the assent of the Hon'ble President of India and became law.
14.11.2025	The Union Government notified the Digital Personal Data Protection Rules, 2025, bringing key provisions of the Digital Personal Data Protection Act, 2023 into operational effect.
14.11.2025	By virtue of notification of the Digital Personal Data Protection Rules, 2025, Section 44(3) of the Digital Personal Data Protection Act, 2023 came into effect, amending Section 8(1)(j) of the Right to Information Act, 2005 relating to disclosure of personal information.
14.11.2025	Vide GSR 843(E) dated 13.11.2025, the notification under the Digital Personal Data Protection Rules, 2025 visualizes the operationalization of the statutory data protection framework governing processing of digital personal data in India., in a phased enforcement over 2 years. While Sections 19, 40, and

	44(3) have come into effect from 14.11.2025, Sections 5, 6(1) to 6(2) and (10), Section 7, Section 12, Section 17, Section 33, Section 36 and 37, come into force from 14.05.2027. These provisions are impugned by way of the present Writ Petition.
10.08.2026	A detailed Representation was issued by the Petitioner to the Ministry of Information & Broadcasting and Electronics & Information Technology regarding the multifarious grievances of Digital News Publishers in connection with the enforcement of the Digital Personal Data Protection Act, 2023 and the rules thereunder.
25.08.2026	A meeting was held between the representatives of the Petitioner No.1 and the officers of the Ministry of Electronics where the DNPA was given the opportunity to place before the Ministry its views on the necessity of an exemption for journalists from the DPDP Act's regime.
02.09.2026	Pursuant to the meeting on August 25, 2026, an email was sent to the MeitY asking for the statutory basis of the points discussed during the meeting.
06.10.2026	Hence, the present Writ Petition.

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. _____OF 2026
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

1. Digital News Publishers Association (DNPA)



2. Ms. Yukta Mudgal



...Petitioners

Versus

1. Union of India
Through its Secretary
Ministry of Law and Justice
Shastri Bhawan
New Delhi-110001.

2. Ministry of Electronics and Information
Technology (MeitY)
Through its Secretary
Electronics Niketan, 6
CGO Complex, Lodhi Road
New Delhi-110003.

.....Respondents

WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA CHALLENGING THE CONSTITUTIONAL VALIDITY OF THE DIGITAL PERSONAL DATA PROTECTION ACT, 2023 READ TOGETHER WITH THE DIGITAL PERSONAL DATA PROTECTION RULES, 2025

TO,
THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
SUPREME COURT OF INDIA.

THE HUMBLE PETITION OF THE
PETITIONER ABOVE-NAMED

MOST RESPECTFULLY SHEWETH:

1. The present Writ Petition under Article 32 of the Constitution of India (hereinafter ***"Petition"***) challenging the Constitutional validity of the Digital Personal Data Protection Act, 2023 (hereinafter referred to as ***"DPDP Act/Impugned Act"***) read together with the Digital Personal Data Protection Rules, 2025 (hereinafter ***"DPDP Rules/Impugned Rules"***), the DPDP Act and DPDP Rules being collectively referred to as the ***"Impugned Framework"***), insofar as the Impugned Framework adversely and unconstitutionally affects the functioning of journalists, news reporters, activists, digital news publishers who are members of the Digital News Publishers Association (hereinafter ***"DNPA"/Petitioner No. 1"***), and infringes upon their constitutionally protected rights.

1.A The Petitioners are filing the present Writ Petition as they are personally aggrieved by the Impugned Act's provisions and hence the present petition is not in the nature of a PIL.

A true copy of The Digital Personal Data Protection Act, 2023 dated August 11, 2023, issued by Ministry of Law and Justice is annexed herewith and marked as **ANNEXURE P-1 (Page No. 70-90)**.

A true copy of the notification/Digital Personal Data Protection Rules, 2025 dated November 14, 2025, issued by Ministry of Electronics and Information Technology is annexed hereto and marked as **ANNEXURE P-2 (Page No. 91-131)**.

2. The present Writ Petition is being filed in enforcement of fundamental rights of Petitioner No. 1 and its individual members under Articles 14, 19(1)(a), Article 19(1)(g), and Article 21. As news publishers, editors, reporters, and correspondents in the digital and press media, their fundamental right to process and disseminate information has been unreasonably curtailed by virtue of the Impugned Act, thereby directly violating their fundamental rights.

3. The Petitioners are the DNPA and Ms. Yukta Mudgal (hereinafter ***"Petitioner No.2"***). Petitioner No.2 is an independent journalist who relies on information available through the RTI mechanism, as well as other information of significant public importance, for her reporting. She has worked as a reporter with various magazines and digital news platforms and holds a Diploma in Print Journalism. The Impugned Framework poses a real and imminent threat to her ability to report on matters concerning financial propriety and accountability of public office holders.

4. That the Digital News Publishers (hereinafter ***"DNPs"***), being members of the DNPA, are directly and adversely aggrieved by the Impugned Framework in their capacity as journalists and as creators and publishers

of digital news content. The Impugned Framework violates the DNPs' fundamental rights under Articles 14, 19 and 21 of the Constitution of India. The relevant sequence of events is set out below:

a. The Impugned Act received Presidential Assent on August 11, 2023; and

b. The Impugned Rules, i.e. Digital Personal Data Protection Rules, framed under the Impugned Act, were notified and brought into force on November 14, 2025; and

c. Significantly, the Impugned Framework omits any exemption for journalistic activities, despite such an exemption having been expressly recognized in earlier legislative and policy formulations, including the B.N. Srikrishna Committee report titled "*A Free and Fair Digital Economy: Protecting Privacy, Empowering Indians*", dated July 27, 2018, the Personal Data Protection Bill, 2018, the Personal Data Protection Bill, 2019, dated December 11, 2019, and Data Protection Bill, 2021, dated December 16, 2021.

A true copy of report of B.N. Srikrishna Committee titled "A Free and Fair Digital Economy: Protecting Privacy, Empowering Indians" is annexed herewith and marked as **ANNEXURE P-3 (Page No. 132-344)**.

A true copy of the draft Personal Data Protection Bill, 2018 is annexed herewith and marked as **ANNEXURE P-4 (Page No. 345-411)**.

A true copy of the draft Personal Data Protection Bill, 2019 is annexed herewith and marked as **ANNEXURE P-5 (Page No. 412-468)**.

A true copy of the report submitted by the Joint Parliamentary Committee (*"JPC"*) on the Personal Data Protection Bill, 2019 with Data Protection Bill 2021 is annexed herewith and marked as **ANNEXURE P-6 (Page No. 469-535).**

A true copy of the Digital Personal Data Protection Bill, 2022 is annexed herewith as **ANNEXURE P-7 (Page No. 536-559).**

DETAILS OF PARTIES

5. It is submitted that DNPA is an association representing the digital news wings of leading media organizations in India. It represents the collective interests of its member DNPs' and works towards promoting, supporting and protecting their growth and independence in the evolving digital news ecosystem.

6. The DNPA represents the interests of its member organizations before governmental authorities, regulatory bodies, industry associations and other stakeholders whose policies and actions having a bearing on the functioning of the digital news industry. It also engages with governmental authorities, regulators and industry stakeholders on policy, legal and regulatory issues affecting the digital news ecosystem.

7. The DNPA further undertakes initiatives to promote awareness of developments in the digital news sector, support fact checking and measures to curb the dissemination of misinformation, and encourage industry standards concerning transparency, viewability, brand safety and fairness. It also seeks to protect its members from unfair and unethical practices that may adversely affect the integrity and independence of digital journalism.

8. The DNPA presently represents 22 media publishers, including The Free Press Journal, The Indian Express Pvt Ltd, Zee Media Corporation Ltd., ABP Pvt Ltd, (Broadcast & News Media) India Today, Malayalam Manorama, Mathrubhumi Printing & Publishing Company, The Hindu Publishing (P) Ltd., Dainik Bhaskar, Times Internet, HT Digital, Network 18, Lokmat Media Pvt. Ltd., India TV, Business Standard Private Limited, The New Indian Express, The Printers Mysore, Amar Ujala, Eenadu Television Pvt. Ltd., NDTV, Jagran New Media and Bennett Coleman.

9. Ms. Yukta Mudgal, the Petitioner No. 2, is an independent journalist based in New Delhi. She undertakes on-ground reporting through her own YouTube and Instagram platforms, including the channel/handle "@yuktareporting". She commenced her career in business journalism with Informist Media, formerly known as Newswire18 and NSE Cogencis, and has previously worked with organizations such as *Autocar India* and *Outlook Business*.

10. The DNPs' represented by Petitioner No.1, as well Petitioner No.2, are directly and adversely affected by the Impugned Framework. By virtue of the amendment to Section 8 (1)(j) read with Section 44(3) of the Right to Information Act, 2005 ("RTI Act"), they have been impeded in accessing and disseminating information concerning matters of public interest, including the conduct and financial propriety of public functionaries. The absence of the protection previously available under the unamended Section 8(1)(j) gravely affects the journalistic activity that depends upon access to information under the RTI Act and consequently impairs the Petitioners' ability to report on matters of public importance. This concern

is further pressing, as the Section 44(3) of the Impugned Act has already come into force.

11. The Respondent No.1 is the Union of India, through the Ministry of Law and Justice, which is concerned with the legislative affairs of the Union.

12. Respondent No.2 is the Ministry of Electronics and Information Technology (***"MeitY"***), Government of India, which is the nodal ministry responsible for policy formulation and implementation in matters relating to information technology and digital governance in India. Respondent No.2 is the administrative ministry in respect of the Impugned Act and Impugned Rules, and is responsible for their implementation, administration and enforcement.

13. It is submitted that the protection of journalistic processes, including source confidentiality, editorial independence, and secure handling of information, is integral to preserving the freedom of the press and the constitutional guarantee of free speech. Journalistic exemptions, necessary to protect *bona fide* journalistic activity undertaken in the public interest, were recognized in earlier iterations of India's proposed data-protection framework, including the Report of the Group of Experts on Privacy chaired by Justice Justice A.P. Shah, the B.N. Srikrishna Committee Report titled *"A Free and Fair Digital Economy: Protecting Privacy, Empowering Indians"*, the Personal Data Protection Bills of 2018 and 2019, the Data Protection Bill, 2021, and the Digital Personal Data Protection Bill, 2022. A true copy of the Report of the Group of Experts on Privacy (Chaired by Justice A.P. Shah, Former Chief Justice, Delhi High Court) released on October 12, 2012, is annexed herewith and marked as **ANNEXURE P-8 (Page No. 560-651)**.

14. A Joint Memorandum submitted by the Press Club of India, in association with 21 Press Bodies and over 1000 journalists, was addressed to the Respondent No.2 on June 25, 2025, seeking a journalistic exemption under the Digital Personal Data Protection Act, 2023. A true copy of the same is annexed herewith and marked as **ANNEXURE P-9 (Page No. 652-660).**

15. The conspicuous omission of a journalistic exemption in the Impugned Framework, without adequate safeguards for *bona fide* journalistic activity carried out in the public interest, threatens to undermine source confidentiality, editorial independence and the effective functioning of the digital news ecosystem. The Petitioners are, therefore, constrained to approach this Hon'ble Court by way of the present petition.

16. This Hon'ble Court has issued notice in a similar petition filed by a journalist seeking substantially similar reliefs, namely *Venkatesh Nayak v. Union of India*, W.P.(C) 177/2026, by order dated February 16, 2026. A true copy of the Order dated 16.02.2026 in passed by this Hon'ble court W.P. (C) 177/2026 is annexed herewith and marked as **ANNEXURE P-10 (Page No. 661-664).**

17. Several petitions instituted by journalists and news organizations raising similar issues have been tagged with the aforesaid writ petition. In *Newslaundry Media Pvt Ltd v Union of India, W.P. (C) 655/2026*, this Hon'ble Court, by order dated June 25, 2026, issued notice returnable on August 03, 2026.

A true copy of the Order dated 26.05.2026 in passed by this Hon'ble court W.P. (C) 655/2026 is annexed herewith as **ANNEXURE P-11 (Page No. 665).**

18. On 10.08.2026, the Petitioner issued a representation to the Respondent highlighting the grievances in connection with the Act. Particular reference was made to the absence of an exemption for journalists and the Amendment made to Section 44(3) of the Act which substituted Section 8(1)(j) of the RTI Act.

A true copy of the Representation dated 10.08.2026 addressed by the Petitioner to the Secretary, Ministry of Electronics and Information Technology is annexed herewith as **ANNEXURE P-12 (Page No. 666-673)**.

19. Thereafter, the Petitioners had met with the Secretary, MeITy on 25.08.2026, whereby the Petitioner had apprised the Secretary of some of the concerns of the Petitioner. Pursuant to the meeting, the Petitioner had sent an E-mail clarification to the Ministry on the aspects discussed and requested the MeITY to provide a written clarification. The aspects discussed as stated in the E-mail was (i) the absence of a specific exemption for journalistic activities under Sections 7 and 17; (ii) the Amendment of Section 8(1)(j) of the RTI Act, 2002; and (iii) the powers of the Central Government under Section 36 and 37 of the DPDP Act, 2023.

The Petitioner had raised the issue of Section 8(1)(j) having been substituted because it had already come into force by GSR Notification 13.11.2025, which imminently impaired the ability of the Petitioner's members to collect vital information. It was with view to resolve this issue that constrained the Petitioner to approach the Ministry.

However, the Petitioner has not yet received any communication or clarification from the MeITy on the aforesaid aspects.

A true copy of the e-mail sent by the Petitioner, DNPA, to the Secretary, Ministry of Electronics and Information Technology, seeking clarification is annexed herewith as **ANNEXURE P-13(Page No. 674-677).**

20. In the aforesaid facts and circumstances, the present Writ Petition raises substantial questions of law as to the interpretation of this Constitution for consideration by this Hon'ble Court:

a. Whether the absence of a specific exemption for journalistic activities under the Digital Personal Data Protection Act, 2023 and the Digital Personal Data Protection Rules, 2025 violates the guarantee of freedom of speech and expression under Article 19(1)(a) of the Constitution by imposing disproportionate restrictions on constitutionally protected journalistic functions?

b. Whether the application of the consent, notice and purpose-limitation obligations under the Digital Personal Data Protection Act, 2023 to bona fide journalistic activities is arbitrary, disproportionate and violative of Articles 14, 19(1)(a) and 21 of the Constitution?

c. Whether the omission of the journalistic exemption that existed in earlier data protection legislative proposals, without any intelligible differentia or rational basis, renders the impugned statutory framework manifestly arbitrary and unconstitutional, insofar as it is enforced against journalists as a class, under Article 14 of the Constitution?

d. Whether Section 44(3) of the Digital Personal Data Protection Act, 2023, by amending Section 8(1)(j) of the Right to Information Act, 2005 and removing the statutory balancing between privacy and public interest recognised by this Hon'ble Court in Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal, is unconstitutional and violative of Articles 14 and 19(1)(a) of the Constitution?

e. Whether the powers conferred upon the Central Government under Sections 36 and 37 of the Digital Personal Data Protection Act, 2023 to require disclosure of information and block access to information are overbroad, unguided and liable to arbitrary exercise, thereby infringing Articles 14 and 19(1)(a) of the Constitution?

f. Whether the constitution, composition and appointment process of the Data Protection Board of India satisfy the constitutional requirements of institutional independence, impartiality and separation of powers applicable to adjudicatory bodies exercising quasi-judicial functions?

g. Whether the absence of adequate statutory safeguards protecting confidential journalistic sources and investigative reporting has an impermissible chilling effect on press freedom, investigative journalism and the public's right to receive information under Article 19(1)(a) of the Constitution?

h. Whether the impugned provisions satisfy the constitutional doctrine of proportionality laid down by this Hon'ble Court in *K.S. Puttaswamy v. Union of India* and subsequent decisions governing restrictions on fundamental rights?

i. Whether the absence of clear statutory standards and procedural safeguards governing the exercise of executive powers under the Digital Personal Data Protection Act, 2023 renders the impugned provisions void for arbitrariness and excessive delegation?

j. Whether the Digital Personal Data Protection Act, 2023 , insofar as it applies to bona fide journalistic activities without providing an appropriate exemption or public interest safeguard, strikes an unconstitutional balance between the fundamental right to privacy under Article 21 and the freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution?

GROUNDS

A. BECAUSE the provisions of the Impugned Act unduly abridge the fundamental right to free speech and expression as guaranteed under Article 19(1)(a) of the Constitution, including the concomitant right to know. The Impugned Act places disproportionate restrictions upon the right to access and collect information that it vital to the public interest in a functioning democracy **[See Sections 5 and 6]**. These restrictions are unreasonable and disproportionate, particularly since the Impugned Act does not exempt *bona fide* journalistic activities from its regulatory regime **[See Sections 7 and 17]**. Further, by virtue of Section 44 (3), the Impugned Act legislatively displaces the carefully balanced regime under the unamended Section 8 (1)(j) of the RTI Act, as recognized by this Hon'ble Court in ***Supreme Court of India v Subhash Chandra Agrawal, (2020) 5 SCC 481***. The Impugned Act also confers unguided powers upon the Executive under Sections 36 and 37, capable of restricting the Petitioners' rights under Article 19(1)(a). While the stated object of the Impugned Act

is the protection of personal data, its effect is to substantially curtail access to information of public importance.

B. BECAUSE the Indian constitutional framework has long recognised transparency and access to information as indispensable to democratic governance. Even before the formal enactment of a statutory right to information, this Hon'ble Court in the State *of U.P.* v. *Raj Narain*, AIR 1975 SC 865, [60,63,74] rejected the State's claim of privilege over official documents and held that the right to know the functioning of government flows from Article 19(1)(a) of the Constitution. This Hon'ble Court held that secrecy is an exception and that courts retain the final authority to decide whether disclosure is against public interest. The judgment laid the constitutional foundation of the Right to Information as a facet of free speech. Furthermore, on 30 December 1981, a seven-judge bench of this Hon'ble Court, in *S.P. Gupta* v. *Union of India*, AIR 1982 SC 149, [66-67], authoritatively reaffirmed that the right to information is integral to Article 19(1)(a). This Hon'ble Court rejected blanket claims of confidentiality over official correspondence and held that disclosure is the rule, while nondisclosure must be narrowly justified. This Hon'ble Court observed that transparency is essential to prevent arbitrariness, corruption, and abuse of power.

C. BECAUSE the scheme of the Impugned Framework fails to strike a constitutionally permissible balance between the right to information and right to privacy, as recognized in ***K.S. Puttaswamy v. Union of India (2017) 10SCC 1***. The amendment to Section 8(1)(j) of the RTI by Section 44 (3) of the Impugned Act has weakened the statutory protection previously available to the right to information. now amended, which then

provided adequate safeguards. The amendments made by the Section 44(3) of the Impugned Act has weakened the statutory protection previously available to the right to information. The substitution of Section 8(1)(j) bears no rational nexus to the stated object of the Impugned Act, namely, "*provide for protection and security of personal data of users*" in the context of the digital economy. The amendment, by preventing access to information even where disclosure is warranted in the public interest, is arbitrary and therefore violative of Article 14 of the Constitution.

Sections 7 and 17 fail to recognize an exemption for journalistic and news publishing activity from the purview of the Act, and are thus in Violation of Article 19(1)(a), Article 19(1)(g), Article 14 and Article 21, as the Impugned Act becomes an unreasonable restriction under Article 19(2) in the absence of an exemption.

D. BECAUSE the restrictions imposed upon journalists and news publishers in the absence of an exemption under Section 17(2) are not traceable to any of the grounds specified under Article 19(2) of the Constitution. The Impugned Framework restricts the collection, use and dissemination of information in a manner that travels beyond the permissible limits of Article 19(2). It is settled law that the State cannot curtail the fundamental right to freedom of speech and expression on grounds other than those expressly set out under Article 19(2) of the Constitution (***Koushal Kishore v State of UP, (2023) 4 SCC 1)***.

E. BECAUSE non-inclusion of journalistic purposes under Section 17 will have a direct and chilling effect on journalism when viewed in the context of the overall scheme of the Impugned Act. The Impugned Act imposes

significant restrictions on the collection and use of personal data. If journalists are required to issue notice identifying the purpose of processing and the personal data proposed to be processed, and thereafter obtain consent that is specific, informed, unconditional and unambiguous with a clear affirmative action, investigative journalism and reporting on matters of public importance would be rendered ineffective. Such obligations impose disproportionate operational and logistical burdens upon DNPs, particularly given the inherently time-sensitive of news gathering and dissemination. They would impede the ability of DNPs to report and publish news promptly and adversely affect the timelines, reach and efficacy of digital news content.

F. Because the absence of a journalistic exemption under the Impugned Act curtails the freedom of speech and expression under Article 19(1)(a) of the Constitution. The freedoms guaranteed under Article 19(1) of the Constitution impose a positive obligation upon the State to maintain conditions in which such freedoms may meaningfully flourish (***Indibily Creative Pvt Ltd & Ors v Govt of West Bengal & Ors [Writ Petition (Civil) No 306 of 2019***]).

G. BECAUSE Section 7, which identifies certain "legitimate uses" of personal data, which allows non-consent-based processing of such personal data, creates a manifestly arbitrary classification that bears no rational nexus to the objects sought to be achieved by the Impugned Act. While the State and its instrumentalities are permitted to process personal data in the discharge of statutory functions, no similar recognition is afforded to journalists and news publishers processing personal data in

furtherance of the citizens' right to know under Article 19 (1)(a) of the Constitution.

a. Section 7(b) permits the State or any of its instrumentalities to process personal data for the purposes of subsidy, benefit, service, certificate, licence, or permit, as may be prescribed.

b. Sections 7(c) and 7(d) permit the State or its instrumentalities to process personal data for the performance of functions under law or in the interest of sovereignty and integrity of India, security of the State, or for fulfilling any legal obligation on any person to disclose any information to the State or any of its instrumentalities.

The exclusion of *bona fide* journalistic activity from the category of legitimate uses is arbitrary, particularly where such activity advances transparency, accountability and the public's right to receive information.

H. BECAUSE the application of the Impugned Act to journalistic activity, in the absence of an exemption from the rigors of Chapter II of the Act, imposes controls in the nature of pre-censorship. Pre-Censorship controls on freedom of press are constitutionally impermissible. [See ***Brij Bhushan v State of Delhi,* 1950 SCC 449**]

a. Under Section 5(1) of the Impugned Act, a Data Fiduciary is required to issue a notice before, or at the time of, seeking consent.

b. Such notice must *inter alia* specify the purpose for which the same is being processed under Section 5(1)(i).

c. Under Section 6(1), consent must be specific, informed, unconditional and unambiguous with a clear affirmative action.

d. Under Section 6(4) and Section 6(6), the Data Principal may revoke consent at any time.

c. Under Section 6(6), the Data Fiduciary is required to cease processing of personal data if a Data Principal has withdrawn her consent, unless the processing is required or authorised under the provisions of this Act or the rules made thereunder or any other law for the time being in force in India.

I. BECAUSE the right to withdraw consent under Sections 6(4) to 6(6), and the right to erasure under Section 12 read with Section 8(7), operate without any public-interest safeguard. These rights may therefore be invoked by persons who are the subjects of critical or investigative reportage, not to protect any legitimate privacy interest, but to burden or deter publishers from undertaking or continuing such reportage. This risk is compounded by the severity of the monetary penalties prescribed under the Schedule to the Impugned Act, which extend up to INR 250 crores and may have a significant deterrent effect on publishers, encouraging the pre-emptive suppression of otherwise lawful reportage. The lack of exemptions for journalists and news publishers, coupled with onerous punitive fines, acts as a disincentive for journalists and news publishers to engage in investigative journalism, as the risk of heavy penalties for handling personal data in the course of news gathering encourages self-censorship and discourages them from pursuing stories in the public interest. The imposition of a penalty up to INR 250 crore could lead to the news publisher shutting down its business. For most media houses, particularly regional, independent and digital-first outlets operating on thin margins, a fine of this magnitude is not a deterrent calibrated to the offence but an existential threat. The cumulative effectis to impose a chilling effect on editorial independence and investigative journalism, thereby placing an impermissible burden on the freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution.

J. BECAUSE further Section 9 of the Impugned Act mandates verifiable consent of parents or legal guardians for the processing of the personal data of a child and makes no exception for *bona fide* journalistic reportage concerning minors on matters of grave public concern, including child welfare, juvenile justice, trafficking and child abuse, in which circumstances the obtaining of parental consent may be impracticable, inappropriate, or contrary to the very interest of the child. The provision

thereby imposes a direct and chilling restraint upon reportage of information of public importance in violation of Article 19(1)(a), and, by disregarding the child's own best interest. It is therefore contrary to the protection guaranteed under Article 21 of the Constitution.

K. BECAUSE the combined effect of these provisions is to vest a person who is the subject of a report with the ability to impede or prevent the use of information that may be relevant to public interest reporting. Further, the Impugned Act creates an unconstitutional regime in which the exercise of one citizen's fundamental right to freedom of speech and expression may be restricted solely on the assertion of another individual's right to privacy, even where the information pertains to matters of public interest. Further, the wide definition of "personal data" under Section 2(t) is capable of encompassing information relating to public office holders and matters concerning open governance involving personal datasets of citizens.

L. BECAUSE the absence of any exemption for journalistic activity under the Impugned Act enables the Data Principal to exercise disproportionate control over the processing and dissemination of personal information by the DNPs. Subjecting the publication of information of public importance to the consent, or withdrawal of consent, of the individual concerned would have a chilling effect on journalism and reporting on current affairs. While the right to privacy is fundamental, it cannot be asserted to prevent disclosure of information that is necessary for open governance and public accountability (***See PUCL v Union of India, (2003) 4 SCC 399 Para 121 and followed in KS Puttaswamy v Union of India, (2019) 1 SCC 1 Para 630***).

M. BECAUSE comparable data protection regimes in force around the world uniformly reconcile data protection with the freedom of the press. Article 85 of the General Data Protection Regulation requires Member States of the European Union to reconcile the right to protection of personal data with the freedom of expression and information, including processing for journalistic purposes; and the Data Protection Act, 2018 of the United Kingdom provides a dedicated exemption for the "special purposes", including journalism. The absence of such reconciliation under the Impugned Act demonstrates that Sections 7 and 17 are not narrowly tailored and are consequently violative of Article 19(1)(a) of the Constitution.

N. BECAUSE Article 19(1)(a) protects not only the content of speech but also the medium through which it is expressed. This Hon'ble Court has consistently recognised that the freedom of speech and expression and other evolving forms of communication, including internet-based publishing, are integral to that right. In ***Anuradha Bhasin v. Gulam Nabi Azad (AIR 2020 SC 1308)***, this Hon'ble Court has held that the freedom of speech and expression and press through the medium of internet, is an integral part of Article 19(1)(a) and Article 19(1)(g) and accordingly, any restriction on the same must be in accordance with Article 19(2) of the Constitution. In the present case, the Impugned Frameworks burden the Petitioners' lawful use of the internet as a medium of expression, thereby directly restricting speech and press freedom in a manner not saved by Article 19(2).

O. BECAUSE the Impugned Framework dangerously tramples upon press freedom and freedom of expression of the DNPs under Article 19 (1)(a) of

the Constitution. ***Sakal Papers (P) Ltd. v. Union of India (1962 AIR 305), Bennett Coleman & Co. v. Union of India (1972) 2 SCC 788 and Indian Express Newspapers (Bombay) v. Union of India (1985) SCC 641.***

Violation of Article 14 and an Unreasonable Classification: Vice of Under-inclusiveness:

P. BECAUSE the exemption under Section 17(2)(b) for processing for research, archival or statistical purposes affords no real protection to journalistic archives. The moment archived material is revisited, corroborated or republished as part of fresh reportage, such use constitutes fresh "processing" within the meaning of Section 2(x) of the Impugned Act, attracting the consent and notice obligations afresh. The exemption is therefore illusory in the journalistic context, and its inapplicability to the maintenance and re-use of a lawful journalistic record is violative of Article 19(1)(a) of the Constitution.

Q. BECAUSE the failure of the Impugned Act to provide an exemption for journalistic purposes under Section 17 suffers from the vice of under-inclusiveness. While Section 17 (2) exempts certain processing activities, including processing for research, archiving and statistical purposes, no exemption is provided for *bona fide* journalistic activity, despite such activity being essential to the exercise of freedom of speech and expression and the public's right to know. The exclusion of journalists and news publishers from the exemption regime is arbitrary and violative of Article 14. It is settled law that "*a classification is bad as under inclusive when a State benefits or burdens persons in a manner that furthers a legitimate purpose but does not confer the same benefit or place the same burden on*

others who are similarly situated." ***[Citizenship Act, 1955, Section 6-A, In re (1), (2024) 16 SCC 105 Paragraph 465]***

R. BECAUSE journalists and DNPs undertaking *bona fide* journalistic activity are similarly situated to the classes of information and entities referred to under Section 17(2)(b). The exclusion of journalistic activity alone is, therefore, without any rational nexus to the object of the Impugned Act.

S. BECAUSE further the omission of the journalistic exemption offends the principle of non-retrogression recognised by this Hon'ble Court in *Navtej Singh Johar v. Union of India, (2018) 10 SCC 1*, which holds that the State must not take measures that deliberately lead to retrogression on conferred rights, more so the ones recognised under the Constitution. Having proposed and endorsed a journalistic exemption across three successive legislative drafts, namely the Personal Data Protection Bill, 2018, the Personal Data Protection Bill, 2019 and the Data Protection Bill, 2021, in recognition of its constitutional necessity, the State cannot, absent compelling justification, withdraw that protection in the enacted law. Such unexplained withdrawal is violative of Article 19(1)(a) read with Article 14 of the Constitution.

T. BECAUSE the compliance burden imposed by Sections 5, 6, 7, 9 and 12, in the absence of any exemption, falls with greater severity upon small and independent publishers, who lack the resources and compliance infrastructure available to larger media entities. To that extent, the Impugned Act operates unevenly as between similarly situated publishers,

without any intelligible differentia, and is contrary to Articles 14, 19(1)(a) and 19(1)(g) of the Constitution.

Amendment to RTI Act under Section 44(3):

U. BECAUSE the Right to Information Act, 2005 enjoys the status of a constitutional statute, in that it gives concrete effect to the State's positive obligation to disclose the information it holds, an obligation flowing from the right to know under Article 19(1)(a) of the Constitution. When the Impugned Act recognises a constitutional principle, Parliament is not competent to delete it. The exemptions contained in Section 8(1) of the RTI Act, 2005 are not merely matters of legislative policy but represent the statutory articulation of the constitutionally permissible limits upon that fundamental right. Consequently, any amendment that abridges the constitutional right to information must answer the tests of legality, legitimate State aim and proportionality under Articles 14, 19(1)(a) and 21, as held in *K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.*

V. BECAUSE the Right to Information and concomitant right to know, are integral facets of the fundamental right to freedom of speech and expression protected under Article 19(1)(a) of the Constitution. This Hon'ble Court has consistently recognized that citizens have a right to know the acts and affairs of public functionaries and that open governance is essential to constitutional democracy (***State of U.P. vs Raj Narain [AIR 1975 SC 865]; S.P. Gupta vs Union of India [AIR 1982 SC 149]; Union of India vs Association for Democratic Reforms [AIR 2002 SC 2002]; and People's Union for Civil Liberties vs Union of India [(2004) 2 SCC 476]***). The RTI Act became the principal statutory vehicle through which the fundamental right to information and right to information were

operationalized and given concrete content, by giving means to the citizens to access information under the control of public authorities.

W. BECAUSE the exercise of the rights to freedom of speech and expression and the right to information in the context of journalism involves: (i) every journalist's right to freedom and expression, including their right to receive information; and (ii) every citizen's right to acquire information. Access to information is essential in a democratic nation, empowering citizens with critical information, and enabling them to consequently make informed choices. In the case of, *Ministry of Information & Broadcasting, Govt. of India v. Cricket Assn. of Bengal*, [(1995) 2 SCC 161], this Hon'ble Court acknowledged the importance of the State allocating airwaves in such a manner that private entities cannot manipulate news, views, and information, and that they advance the freedom of speech of citizens and ensure plurality and diversity of views, opinions, and ideas. It was noted that this is imperative in every democracy where freedom of speech is assured.

X. BECAUSE Section 44(3) of the DPDP Act restricts the right to information in an unreasonable manner. The provisions of fundamental rights in Part III of the Constitution are not independent silos and have to be read together as complementary rights (*Rustom Cavasjee Cooper* v. *Union of India*, [(1970) 1 SCC 248]; *K.S. Puttaswamy I;* and *Maneka Gandhi* v. *Union of India and Anr.*, [(1978) 1 SCC 248]. The amendment to Section 8(1)(j) of the RTI Act annuls the citizens' right to information regarding the transparent operation of public affairs. Neither the right to privacy nor the right to protect personal data or personal information justifies the infringement of the right to information that helps hold the government

accountable. The citizens' right to know and access information is far too important in a democracy, and denying personal information that discloses essential data or particulars about the working of public offices, public authorities, and instrumentalities of the State results in the government operating in secrecy. The amendment to Section 8(1)(j) of the RTI Act threatens the ability of the Indian democracy to hold a plurality and diversity of views, opinions, and ideas (*Ministry of Information & Broadcasting, Govt. of India v. Cricket Assn. of Bengal*, [(1995) 2 SCC 161].

Y. BECAUSE the unamended Section 8(1)(j) of the RTI Act reflected a balance between the right to information and the right to privacy. It exempted only such personal information whose disclosure had no relationship to any public activity or interest, or which would cause an unwarranted invasion of privacy. Crucially, it preserved disclosure where the Central Public Information Officer (***"CPIO"***), State Public Information Officer *(**"SPIO"**)* or the Appellate Authority, was satisfied that the larger public interest justified such disclosure. Thus, the unamended Section 8(1)(j) of the RTI Act embodied the following safeguards (i) public activity or interest test; (ii) unwarranted invasion of privacy test; and (iii) an override in cases where larger public interest justified disclosure.

Z. BECAUSE the impugned amendment does not satisfy the test of double proportionality applied by this Hon'ble Court in *Association for Democratic Reforms v. Union of India, (2024) 5 SCC 1*. Where a law restricts one fundamental right in the name of protecting another, the Court must apply the proportionality test twice, once in respect of the right being restricted and once in respect of the right being protected. Here, the right

to information under Article 19(1)(a) has been entirely sacrificed to an undefined and open-ended privacy exemption. It is submitted that Section 8(1)(j) was a framework already upheld as constitutional, and operated as a less restrictive option. Section 44(3) is therefore violative of Article 19(1)(a) of the Constitution.

AA. BECAUSE the Constitution Bench of this Hon'ble Court in CPIO, ***Subhash Chandra Agarwal (Supra)*** reaffirmed that the right to information is rooted in Article 19(1)(a) of the Constitution. It further recognized that neither the right to right to privacy under Article 21 nor right to information under Article 19(1)(a) of the Constitution are absolute rights, and that the competing interests must be balanced with reference to public interest, transparency and accountability. The amendment to Section 8(1)(j), by removing the statutory safeguards embedded in the unamended provision, disrupts this constitutionally recognized balance.

BB. BECAUSE a nine-Judge Bench in Justice ***K.S. Puttaswamy v. Union of India [(2019) 1 SCC 1]*** has held that any measure affecting fundamental rights, including the right to information under Article 19(1)(a), must satisfy the test of proportionality, namely, (i) legality (there must be a law in existence to justify an encroachment on privacy); (ii) necessity (the existence of a legitimate State aim to ensure that the nature and content of the law which imposes the restriction falls within the zone of reasonableness mandated by Article 14 being a guarantee against arbitrary state action) and (iii) proportionality (adoption of the least restrictive means). The Judgment judicially affirms unamended Section 8(1)(j), as striking the correct balance between personal information and the right of the citizen to disclosure of such information, when it has a bearing on

public affairs. Thereafter, applying the proportionality standard specifically in relation to unamended Section 8(1)(j) is standard, the Constitution Bench in ***Subhash Chandra Agarwal (supra)*** specifically upheld the constitutional validity of the unamended Section 8(1)(j) of the RTI Act on the ground that it incorporated a *"legislatively mandated measure of proportionality"*, by requiring the PIO to balance the public interest in disclosure against the privacy harm and to order disclosure where larger public interest so warranted.

CC. BECAUSE Section 44(3) of the Impugned Act substitutes the entire original Section 8(1)(j) of the RTI Act with bare and unqualified exemption for *"information which relates to personal information"*. As a result, all three statutory tests namely, the *"public activity or interest"* nexus, the *"unwarranted invasion of privacy"* threshold, and the *"larger public interest"* override, stand deleted. A side-by-side comparison of the unamended and amended Section 8(1)(j) is incorporated below:

UNAMENDED SECTION 8(1)(j) OF THE RTI ACT	**AMENDED SECTION 8(1)(j) OF THE RTI ACT**
8. Exemption from disclosure of information. –	8. Exemption from disclosure of information. –
(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen –	(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen –
(j) information which relates to personal information the disclosure of	(j) information which relates to personal information

which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of individual, unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information.	

DD. BECAUSE by deleting the "public activity" exception and the larger "public interest" override for the purposes of disclosure of personal information from Section 8(1)(j) of the RTI Act, Section 44(3) of the Impugned Act, completely dismantles the balancing architecture which forms the constitutional safeguard protecting the fundamental right to information and disables the functioning of the RTI Act itself. The amended Section 8(1)(j) in effect is a blanket bar on the obligation to disclose all "personal information" without any statutory scheme, standard, guiding principle to balance it against public interest. Such a blunt prohibition is grossly disproportionate to the stated objective of protecting privacy and fails the proportionality test laid down in ***Justice K.S. Puttaswamy*** **(supra)** and followed in ***Subhash Chandra Agarwal*** **(supra)**.

EE. BECAUSE once this Hon'ble Court, in ***Justice K.S. Puttaswamy (supra)*** and ***Subhash Chandra Agarwal (supra)***, has held that the unamended Section 8(1)(j) of the RTI Act embodies a balance between the right to information under Article 19(1)(a) and the right to privacy under Article

21, the legislature cannot efface that balance without amending the underlying constitutional premise on which those judgments rest. Section 44(3) of the Impugned Act, though framed as an amendment to the RTI Act, in substance overrides the interpretation of Section 8(1)(j) and removes the proportionality safeguards which this Hon'ble Court has consistently upheld. It is trite law that what cannot be done directly, cannot be done indirectly. The legislature cannot, under the guise of a general amending provision, neutralize a judiciary recognized balance or dilute the constitutional protection attached to it.

FF. BECAUSE the right to information having been anchored in Article 19(1)(a) of the Constitution, any legislative curtailment must be justified strictly within the grounds enumerated in Article 19(2). "Privacy", digital or otherwise, is not one of the permissible grounds of restriction under Article 19(2), and this Hon'ble Court has consistently subordinated claims of privacy of public functionaries to the larger public interests. Section 44(3) of the Impugned Act, in substance, allows the State to invoke an amorphous notion of privacy, including the supposed privacy of public officials acting in their official capacity, to defeat citizens' right to access information about public acts and public expenditure, which is impermissible under Article 19(2) of the Constitution.

GG. BECAUSE Section 44(3) of the Impugned Act transgresses the subject matter, purpose and legitimate field of operation of the statute. By virtue of Section 3, the Impugned Act is confined to the processing of personal data in digital form and non-digital personal data that is subsequently digitised. This limited scope is reinforced by the definitions contained in the Impugned Act: Section 2(n) defines "digital personal data" as personal

data in digital form; Section 2(t), read with Section 3(a), confines the application of the statute to personal data falling within the digital ambit; and Section 2(x) defines "processing" as wholly or partly automated operations performed upon such digital personal data. A combined reading of these provisions makes it clear that the Impugned Act is intended to regulate the use of personal data in the digital format. In contrast, Section 2(f) of the RTI Act defines "information" as *'any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force'*. Section 44(3) of the Impugned Act, by amending Section 8 (1)(j) of the RTI Act, restricts access to personal information held by public authorities, irrespective of whether such information is in digital or non-digital form, whether it is processed digitally, or whether its disclosure raises any risk associated with digital processing. The amendment therefore travels far beyond the subject matter, purpose and legitimate aim of the Impugned Act. It is consequently overbroad, lacks a rational nexus with the object sought to be achieved, and is liable to be struck down.

HH. BECAUSE Section 8(2) of the RTI Act is not an adequate safeguard for disclosure of information on account of public interest, as it is entirely discretionary in nature and states that public authorities 'may' allow disclosure of information where *"public interests in disclosure outweighs the harm to the protected interests"*, even if its disclosure may not be permitted under the Official Secrets Act, 1923 or under the exemptions including 'personal information' exemption under section 8(1)(j) of the

RTI Act. In ***Subhash Chandra Agarwal (supra)*** this Hon'ble Court has expressly held that Section 8(2) does not create a vested, justiciable right which a citizen can enforce before the Public Information Officer, and that once an exemption under Section 8(1) is found applicable, the Public Information Officer is under no duty to invoke Section 8(2). By removing the balancing test from Section 8(1)(j) and relegating any consideration of public interest to this vague, post-facto institutional discretion, Section 44(3) converts a concrete, enforceable safeguard into a diffuse and non-justiciable power, which falls short of the safeguards mandated by ***Puttaswamy (supra)*** and ***Subhash Chandra Agarwal (supra)***.

II. BECAUSE the Right to Information Act was consciously framed by the legislature as a pro-disclosure statute, on the premise that disclosure is the norm and secrecy the exception. The Preamble and Section 4(1)(b) of the RTI Act, mandate *suo* moto disclosure by public authorities of a wide range of information relating to their structure, functions, decision-making processes, norms, budgets and beneficiaries, while Section 8(1) carves out a set of narrow, exhaustively enumerated exemptions. Section 44(3) of the Impugned Act turns this design on its head in relation to any record containing personal information where the mere presence of an identifiable element, however trivial and however closely linked to public office or duty, is sufficient to justify denial of information, without any statutory requirement to consider whether public interest and transparency demands otherwise. Since the legislative design of the RTI Act is of *"disclosure is the rule and secrecy the exception"*, any amendment that converts a qualified exemption into an absolute bar and obliterates the public-interest override runs contrary to this basic statutory architecture and amounts to

an unreasonable restriction on the right to information under Article 19(1)(a) of the Constitution.

JJ. BECAUSE the right to privacy, as recognized in ***Puttaswamy (supra)***, is a personal, individual right grounded in Article 21, and it is not an absolute right vested in the State or its instrumentalities. Section 44(3) of the Impugned Act in effect enables the State and public authorities to invoke "privacy" in order to shield from disclosure to the public, their own functioning and the actions of public officials from scrutiny, thereby transforming a right meant to protect individuals against the State into a cloak for governmental secrecy. Such an inversion is alien to the constitutional scheme and cannot furnish a valid basis to cut down the citizen's Right to Know under Article 19(1)(a) of the Constitution.

KK. BECAUSE the deletion of Section 8(1)(j) by Section 44(3) of the DPDP Act, 2023, also fails to meet the test of reasonable classification under Article 14, as it treats all personal information alike and exempts it wholesale from disclosure, regardless of public interest. It does not distinguish the personal information of private individuals and that of public officials acting in their official capacity, a distinction this Hon'ble Court has long recognised as essential to accountability and transparency. In the absence of any such differentia, Section 44(3) is violative of Article 14 of the Constitution.

LL. BECAUSE the framework of the Impugned Act does not provide any clear protection for non-consensual reporting and publication in matters of public importance, including matters concerning public officials, public institutions, electoral malpractice, corruption, corporate wrongdoing, or

other matters of public concern and accountability. The statute does not recognize that, in such contexts, obtaining consent may be impracticable, counterproductive, or even destructive of the very purpose of journalistic inquiry and public-interest reporting. As a result, the impugned framework places an impermissible restraint on investigative journalism and public interest speech, particularly where disclosure is necessary to expose wrongdoing and to facilitate informed democratic debate.

MM. BECAUSE the Impugned Framework would render investigative journalism a benign and neutered recorder of events. Investigative journalism forms the bedrock of democratic accountability that enables informed public discourse. The Impugned Framework does not recognise the role of investigative journalism in inducing corrective actions by the government. A prime example was the investigative journalism by Indian Express which led to the detection of close to INR 20,3353 cr undisclosed credits with respect to 930 India-linked entities in the Panama and Paradise Paper Leaks.

Similarly,an investigative story by Dainik Bhaskar into a human trafficking network in Gujarat selling children as factory labour led to the establishment of a special investigation unit for children and women in every district, which eventually led to the rescue of more than 1000 children. Lastly, an investigative report by a local reporter in Uttar Pradesh about children being served roti with salt led to an inquiry by the District Magistrate, resulting in the suspension of the teacher in charge and the panchayat supervisor. This action was followed up with systematic reforms to ensure that the same incident did not occur again. These examples exhibit the value of investigative journalism in inducing corrective action by government authorities for social good.

BECAUSE the substitution of Section 8(1)(j) by Section 44(3) of the DPDP Act, 2023 has come into effect by Notification dated 13.11.2025 and impacts the members of Petitioners to access information of vital public importance in ongoing stories for reporting and impairs the fundamental rights of the Petitioners to freedom of speech and accessing information.

Article 19(1)(g): Freedom to Practice Profession or to Carry on any Occupation, Trade or Business:

NN. BECAUSE the freedom of occupation and trade of the DNPs is substantially affected by the Impugned Framework, as the DNPs who are entrusted with handling personal information/data for their respective websites or accounts on intermediary platforms via the internet medium, are unreasonably restricted by the Impugned Framework. Article 19(1)(g) of the Constitution is already protected by reasonable restrictions under Article 19(6) of the Constitution.

OO. BECAUSE the Impugned Framework fails to distinguish between commercial data exploitation and *bona fide* journalistic processing undertaken in furtherance of public-interest reporting, and thereby subjects constitutionally protected newsgathering, verification, publication and archival functions to a regime which is ordinarily considered as *'data processing'*. In doing so, the Impugned Framework imposes a disproportionate restriction on constitutionally protected speech and press activity, which is not saved by any legitimate restriction under Article 19(2) of the Constitution.

PP. BECAUSE these Impugned Framework, in the absence of a journalistic exemption under Section 17 of the Impugned Act, materially impairs DNPs' ability to engage, retain, and expand their readership and user/reader base, thereby reducing audience visibility, traffic, and advertising-linked revenue, all of which are central to the commercial viability of DNPA members pan India. Since DNPs derive advertising revenue from audience engagement generated through the publication and dissemination of news, information, and other editorial content, the current Impugned Framework, diminishes the readership and reduces visibility, which directly diminishes revenue streams, weakens market competitiveness, and erodes the incentive to continue operating in the news media sector. These Impugned Framework thus operates as an indirect and disproportionate restraint on the DNPs' freedom to carry on trade, occupation, and business under Article 19(1)(g), beyond the permissible limits of Article 19(6) of the Constitution.

QQ. BECAUSE the Impugned Framework places a direct burden on the DNPs, in relation to audience engagement, and online readership, thereby

affecting the DNPs' ability to carry on their profession and business through the internet. The restrictions so imposed, are neither narrowly tailored nor proportionate to any legitimate regulatory objective, and in any event travel far beyond the permissible contours of Article 19(6) of the Constitution.

Section 36 and 37 of the Impugned Act confers unfettered power to the Central Government under the Impugned Framework

RR. BECAUSE the Section 36 of the Impugned Act read with Rule 23 of the Impugned Rule, confers an inherently arbitrary power to the Central Government to require the Board, and any Data Fiduciary or Intermediary to furnish *"such information as it may require"* from the Board and any Data Fiduciary or intermediary, without safeguarding the DNPs' constitutional rights, journalistic privileges, source-confidentiality interests which threaten the very fabric of freedom of press and becomes ultra vires.

SS. BECAUSE powers conferred upon the Central Government under Section 36 and 37 of the Impugned Act, fails the proportionality standard which mandates that any restriction on a fundamental right be narrowly tailored. Such drastic restrictions are justified on *"compelling state interest"* alone (See ***KS Puttaswamy v Union of India, (9J) (2017) 10 SC 1***). However, safeguards are conspicuous by their very absence in the provisions under Section 36 of the Impugned Act. It is clear that Section 36 of the Impugned Act intrudes into spheres which can be termed as *"reasonable expectation"* of privacy of a journalist. A reporter's right includes the right to protect

sources and Section 36 of the Impugned Act constitutes a violent invasion into such fundamental rights.

TT. BECAUSE Section 36 of the Impugned Act lacks any legitimate purpose which is to be achieved. In view of identical powers conferred under similar laws, there is no rational connection which could justify the necessity in the Impugned Act. Furthermore, in view of the width and discretion at which such power can be exercised, it is not the least restrictive measure (See ***Association of Democratic Reforms vs. Union of India, (2024) 5 SCC 1 Para 252***, concurring opinion of Sanjiv Khanna, J (as he then was).

UU. BECAUSE the framework under Section 36 read with Rule 23 requires no prior judicial authorisation, permitting intrusive access to personal information at the sole discretion of the executive. The absence of the procedural guarantee against abuse, which is the fourth and indispensable limb of the proportionality standard laid down in *K.S. Puttaswamy* (supra), renders the said framework violative of Constitutional guarantees under Article 14 and 21.

VV. BECAUSE Section 36 lacks the basic procedural safeguards that must attend any exercise of intrusive power. It requires no written order to compel information, let alone a reasoned one; it mandates no notice to the Data Principal, and in fact permits the requisition itself to be withheld under Rule 23(2), with the result that the affected individual may remain wholly unaware that their rights have been invaded; it affords no remedy, recourse or review against orders passed thereunder; and it allows the imposition of a compliance any timeline, even so short to defeat any real

opportunity to take judicial recourse, before compliance. Each of these omissions renders Section 36 violative of Articles 14 and 21 of the Constitution.

WW. BECAUSE Section 36 contains no requirement of purpose limitation, collection limitation, or data minimisation. Its only apparent limit is that the information be sought "for the purposes of this Act", which is too vague to amount to a legitimate aim. Rule 23 read with the Seventh Schedule of the Impugned Rules makes matters worse by allowing information to be demanded, among other things, for carrying out any function under any law in force and for meeting any obligation under any law. This turns Section 36 into a general power to gather information across virtually every field of law. Moreover, once the information is handed over, it falls outside the protections of the Impugned Act entirely. The provision therefore fails the suitability and necessity limbs of the proportionality test and is violative of Article 21 of the Constitution.

XX. BECAUSE Section 36 of the Impugned Act is so nakedly unguided that it poses a real and imminent threat to the disclosure of journalistic sources which is protected under Article 19(1)(a) of the Constitution and as a facet of privacy under Article 21 of the Constitution against State intrusion. The power is unguided and can extend to privileged communications in possession of a reporter or the informant. This Hon'ble Court in ***Manohar Lal Sharma v Union of India, Crl. No. 314/2021,*** held that *"An important and necessary corollary of such a right [freedom of the press] is to ensure the protection of sources of information"*. It is imperative that this Hon'ble Court place an interpretation that reads down the scope and width of the

provision as it is inherently prone to abuse. The observations extracted below give credence:

> *"Having regard to the importance of journalistic sources for press freedom on a democratic society and the potential chilling effect that snooping techniques may have, this Court's task in the present matter, where certain grave allegations of infringement of the rights of the citizens of the country have been raised, assumes greater significance."*

YY. Because by empowering the Central Government to compel disclosure of any *"such information as it may require"*, including information capable of identifying confidential journalistic sources, Section 36 of the Impugned Act creates a chilling effect on the freedom of press. Such a provision is likely to deter confidential sources, whistleblowers and insiders from assisting the press in disclosure of matters of public interest. Without the protection of sources of information, persons possessing material information would be disinclined to come forward, thereby impairing investigative journalism and the public's right to be informed.

ZZ. BECAUSE Courts in India particularly in ***Javed Akhtar vs Lana Publishing Co., AIR 1987 Bom 339***, and ***Nishi Prem vs Javed Akhtar, AIR 1988 Bom 222***, as well as the Delhi High Court in ***Ram Jethmalani vs Subramanian Swamy, 2006 SCC OnLine Del 14***, have recognized that source protection is integral to the media's role as a watchdog in a democracy and that Courts must be extremely slow to order disclosure of journalistic sources where the material concerns public interest reporting. Section 36 of the Impugned Act, which enables the Central Government to

demand *"any information"* from Data Fiduciaries, including information in the possession of news organizations and journalists, disregards this judicially recognized source privilege and is therefore *ultra vires* of Article 19(1)(a) of the Constitution.

AAA. BECAUSE the very foundation of source privilege is that whistle-blowers, insiders and vulnerable informants will approach journalists only on conditions of confidentiality. If such persons apprehend that the Central Government may, by invoking Section 36 of the Impugned Act, obtain information capable of identifying them, they will be deterred from disclosing information relating to grave issues of public interest such as corruption, corporate wrongdoing or electoral malpractice. Such a chilling effect on the flow of information to the press undermines the public's fundamental right to know under Article 19(1)(a) of the Constitution.

BBB. BECAUSE what makes these provisions excessive and unwarranted is that the Information and Technology Act, 2000 ***("IT Act")*** already contains powers similar to Section 36 and 37 of the Impugned Act. Under Section 38(1) of the IT Act, the provisions of the Impugned Act shall be *"in addition to and to and not in derogation of any other law for the time being in force"*. It was the original thinking of the Court that statutes enjoyed the presumption of constitutional validity, and the burden was cast on the Petitioner to justify its invalidity. However, with the growth of proportionality standard of review, the State is bound to justify (i) that the objective is legitimate and (ii) the law is in furtherance of a legitimate aim.

CCC. BECAUSE the Section 36 of the Impugned Act is vague, open ended and ambiguous, which not only fails to create an accountable framework to hold the Central Government accountable for unlawful data processing

through such surveillances, but also does not strike a crucial balance between protecting the fundamental right to privacy and the legitimate interests/ use of such data by the Central Government.

DDD. BECAUSE the Central Government under Section 37(1) of the Impugned Act can block any information for access to the public in the *"interest of the general public"*. Such a restraint, *firstly* being vague and open-ended, will curtail the DNP's journalistic interests and purposes across various mediums. That such 'blocking' which is in the 'interest of the general public' and for which the Central Government is satisfied that the blocking is "necessary or expedient", will intentionally or unintentionally create a mechanism for DNPs which may not be constitutionally permitted grounds as envisaged under Article 19(2) of the Constitution.

Absence of Exemptions for Journalistic and Public Interest Processing Under the DPDP Act Renders the Legislative Scheme Unconstitutional, Disproportionate, and Manifestly Arbitrary

EEE. BECAUSE the DPDP Act does not exempt the processing of personal data for public-purposes, including for journalistic purposes, and the scheme of the DPDP Act in this regard is unreasonable and manifestly arbitrary. In *K.S. Puttaswamy I (supra)*, J Kaul noted that while any data protection law should carefully balance privacy concerns and legitimate State interests, including public benefit arising from scientific and historical research based on data collected and processed. J Chandrachud in *K.S. Puttaswamy I (supra),* noted the need for data collection in State planning and to ensure

adequate allocation and use of public resources in a social welfare State. In this respect, the judgment recalled Regulation No. 2016/679 of the European Parliament and of the Council of 27-4-2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive No. 95/46/EC ("**GDPR**"), which recognises competing interests. Such interests include other fundamental rights and public interest, including scientific or historical research purposes or statistical purposes.

Manifest Arbitrariness under Article 14

FFF. BECAUSE a complete reading of the Impugned Framework produces an anomalous, unreasonable and an unjust regulatory regime, which is violative of Article 14 of the Constitution of India. It is further submitted that the Impugned Framework suffers from vagueness and overbreadth, in as much as it provides absolutely no clarity on the applicability of the Impugned Framework to journalists and media organisations. The absence of clear definitions, guiding rules and principles, or limiting criteria results in uncertainty in compliance, confers unguided discretion in enforcement, which renders the Impugned Framework arbitrary and constitutional infirm.

GGG. BECAUSE the Impugned Act is manifestly arbitrary, in as much as it fails to recognize or preserve the constitutionally necessary journalistic safeguards and exemptions required to protect the legitimate interests of DNPs. The arbitrariness is evident from the plain reading of Section 17 itself, more particularly, being borne out by the following, *inter alia*:

a. Section 17 (2): which allows the Central Government to have a discretion to put a blanket exemption upon state instrumentalities.

Further, Section 17(2)(b) is constitutionally deficient in as much as it fails to account for the need to preserve DNPs' legitimate safeguards for retention, archival use, and statistical or research purposes, all of which are integral to journalistic activity, public-interest reporting, and the maintenance of a reliable public record.

b. Section 17 (3) and Section 17(5) allow the Central Government to exempt certain classes of Data Fiduciaries or class of Data Fiduciaries such as start-ups and exempts certain purposes from processing personal data without providing adequate safeguards to DNPs.

HHH. BECAUSE Section 17 of the Impugned Act, being an exemption provision governing the processing of personal data, must be construed strictly in accordance with settled principles of law. The Impugned Framework has failed to provide definitive carveouts, which outline specific exemptions in each case for practicing journalism in public interest as the definition of *"data fiduciary"* and *"data processor"* apply to them when they gather any *"personal data"* about a *"data principal"*. That this exercise will have a chilling effect on the DNPs, wherein they, along with their journalists and reporters, will be mandatorily required to seek prior consent from any person they report on, or whose *"personal data"* such as identification details etc. are contained in their articles, press releases, etc. on the DNPs respective websites.

III. BECAUSE the DNPs are already subject to a comprehensive and multi-layered regulatory and ethical regime, governing journalistic conduct, including the framework under the Press Council Act, 1978, which mandated adherence to the Norms of Journalistic Conduct. The same

embodies principles of accuracy, fairness, accountability, and as well as ethical reporting. These norms constitute a binding self-regulatory code evolved through various statutory mandates and adjudicatory process, which ensures that journalistic activities are already regulated through such established mechanisms of professional discipline.

JJJ. BECAUSE in addition to the aforesaid statutory framework, DNPs are already subject to a layered and sector-specific regulatory framework under Part III of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, framed under the IT Act, which-save and except the operation of Rules 9(1) and 9(3), presently under judicial considerations on publishers of news and current affairs content, including compliance with blocking directions, furnishing of information, and adherence to prescribed standard of conduct prescribes a binding Code of Ethics and a three-tier grievance redressal mechanism for publishers of news and current affairs content. The said Code of Ethics expressly mandates compliance with (i) the Norms of Journalistic Conduct under the Press Council framework, and (ii) the Programme Code under the Cable Television Networks (Regulation) Act, 1995, thereby creating a cumulative and overlapping compliance burden on DNPs. In view of all these restrictions which govern DNPs, the provision of the Impugned Framework is wholly disproportionate. It is evident that the Impugned Act fails to pass muster on proportionality grounds.

KKK. BECAUSE despite the existence of the aforesaid robust and layered regulatory framework, the Impugned Act fails to recognize or incorporate any exemption for journalistic activities, in stark departure from the recommendations of the Joint Parliamentary Committee (JPC), which had

expressly envisaged that processing of personal data for *"journalistic purposes"* ought to be exempt, subject to adherence to a recognized code of ethics issued by the Press Council of India, or by any statutory media regulatory organization. The omission of such an exemption, despite the acknowledged existence of sector-specific ethical and statutory safeguards governing journalistic conduct, results in disproportionate regulatory overreach, duplication of compliance obligations, and an unreasonable restriction on the exercise of fundamental rights under Article 19(1)(a) of the Constitution, thereby rendering the Impugned Framework manifestly arbitrary and violative of constitutional guarantee.

LLL. BECAUSE the Impugned Framework, by imposing operational obligations to obtain consent, effectively regulates the DNPs' newsroom workflows and editorial processes without any media-sensitive calibration, thereby amounting to indirect and unconstitutional regulation of the press. The said is directly in the teeth of the Constitutional frameworks, which is ultra vires of Article 14 and 21.

MMM. BECAUSE the Impugned Frameworks fail the two-prong test for unreasonable classification and the manifest arbitrariness standard evolved by this Hon'ble Court. In ***Association for Democratic Reforms v. Union of India (2024 INSC 113)***, the test of manifest arbitrariness includes the following two applications:

> *a. The determination of whether the provision lacks an "adequate determining principle" or if the adequate determining principle is not in consonance with constitutional values; and*

b. If the provision does not make a classification by identifying the degrees of harm.

NNN. BECAUSE Article 14 of the Constitution of India declares the fundamental right that no one shall be subjected to arbitrary action by the State. Judicial dicta have consistently held that proportionality is a corollary to this principle that must be read into any legal provision that empowers the State to impose any penalty on a person or enterprise. This Hon'ble Court in ***Shayara Bano v. Union of India, (2017) 9 SCC 1***, has observed that the ground of *"manifest arbitrariness"* is also available for examining the validity of a legislation as well as a subordinate legislation.

OOO. BECAUSE the draft Digital Personal Data Protection Bill, 2022 and the Digital Personal Data Protection Bill, 2018, along with the Srikrishna Committee Report titled *"A Free and Fair Digital Economy: Protecting Privacy, Empowering Indians"* Personal Data Protection Bill, 2019 as introduced in the Parliament, and further, all prior drafts of India's data protection laws, which were accessible to the public, had specifically exempted compliances of the legal framework for journalistic purposes. The said exemption duly protected the fundamental and constitutionally guaranteed role of the press and DNPs' journalistic interests. Further, such exemptions were also provided in privacy laws in many countries such as the European Union, Singapore, Kenya, Australia and the United Kingdom. That such deletion tantamount to curtailment of DNPs rights of journalistic freedom.

(a) The European Union's GDPR enables Member States to provide for exemptions or derogations from certain provisions of the GDPR for journalistic purposes and freedom of expression (GDPR, Art. 85). The provisions from which journalists are exempted include having a lawful reason or basis for using data, providing privacy information, complying with individual rights that people have about their data, etc.

(b) Singapore's Personal Data Protection Act, 2012, in Part II of its First Schedule, provides an exception for news organisations to collect, use, and disclose personal data without consent solely for their news activity.

(c) Kenya's Data Protection Act of 2019, in Section 30(1)(b), allows the processing of personal data without the consent of the data subject when required for the purpose of historical, statistical, journalistic, literary and art or scientific research. Section 39 of Kenya's Data Protection Act of 2019 permits the retention of personal data for longer than is "reasonably necessary", when such retention is required for historical, statistical, journalistic, literature and art or research purposes.

(d) Under Section 7B(4) of Australia's Privacy Act, 1988, acts and practices of 'media organisations' are exempt from the operation of the Act, provided the acts or practices are undertaken 'in the course of journalism' at a time when the organisation is publicly committed to observe standards that deal with privacy. This exemption aims to ensure an appropriate balance between the public interest in freedom of expression and the public interest in adequately safeguarding the handling of personal information.

(e) In Canada, the personal information protection principles do not apply to personal information collected, used or disclosed by a private sector organisation for journalistic, artistic or literary purposes (Personal Information Protection and Electronic Documents Act 2000, SC 2000,c 5, (Canada) ss 4(2)(c), 7(1)(c)).

(f) In the United Kingdom, Article 85(1) of the UK's GDPR read with Part 5 of Schedule II to the Data Protection Act, 2018, ensure that the right to protection of personal data is reconciled with the right to freedom of expression and information, by exempting processing for journalistic purposes and for academic, artistic or literary expression and where the controller reasonably believes that the publication of the material would be in the public interest. When determining "public interest, the Data Protection Act, 2018, requires the controller to take into account the special importance of public interest in the freedom of expression and information but to have regard to relevant Codes of Practice or guidelines, including that of the BBC Editorial Guidelines, Ofcom Broadcasting Code, IPSO Editors' Code of Practice.

PPP. BECAUSE the Impugned Framework under Section 12, permits erasure of personal data, through consent-withdrawal and erasure mechanisms by the Data Principal, which will inherently undermine the DNPs' very function of publishing news and current affairs and destroy the integrity of journalistic record(s). As DNPs, who are members of DNPA are public-facing chronicles and also consist of a library of lawfully published materials, which are maintained for: Contemporaneous reporting;

historical memory; accountability; statistical probabilities; research and future references. The implication of retrospectively removing such lawfully published data, will negate the journalistic functionality of DNPs and impose an unconstitutional restraint on DNPs freedoms under Article 19(1)(a) and 19(1)(g).

Institutional Infirmities in the Constitution, Composition, and Adjudicatory Powers of the Established Data Protection Board ("Board")

QQQ. BECAUSE the Impugned Act establishes a body corporate as the **Board** and entrusts it with powers to adjudicate complaints, determine violations of statutory obligations, impose penalties, and issue binding directions affecting rights and obligations of parties governed under the statute. The statutory functions entrusted to the Board broadly include: (i) determination of non-compliance with statutory obligations; (ii) issuance of directions for compliance; (iii) imposition of monetary penalties; and (iv) adjudication of disputes arising under the regulatory framework governing processing of digital personal data. These functions are adjudicatory in character and bear the attributes of a quasi-judicial tribunal rather than a managerial or supervisory board.

RRR. BECAUSE the legislative intent emerging from Sections 27 and 28 of the Impugned Act demonstrates that the Board is vested with such functions and powers which are determinative of rights and liabilities of individuals and entities governed by the Impugned Act and bear the essential attributes of adjudicatory jurisdiction ordinarily exercised by statutory tribunals, having judicial members. Further, Section 28 of the Impugned Act provides that the Board shall, for the purposes of discharging its functions

under the Act, conduct inquiries in accordance with the principles of natural justice and regulate its own procedure subject to the provisions of the Impugned Act. Entrusting such adjudicatory powers affecting rights and liabilities to an authority lacking institutional safeguards of independence is not in consonance with a just, fair, and reasonable procedure. Therefore, it is violative of Article 14 of the Constitution and materially affects the Petitioners' ability to carry out protected journalistic activity as guaranteed under Article 19(1)(a) and Article 19(1)(g) of the Constitution.

SSS. BECAUSE the expression "Board" ordinarily denotes a supervisory or administrative body, whereas the authority constituted under the Impugned Act performs adjudicatory functions of a statutory tribunal. In ordinary usage of the English language, a "Board" denotes a body entrusted with supervisory, administrative, regulatory, or policy-making responsibilities relating to governance of an organization or regulatory domain. Whereas a "Tribunal" is a specialized quasi-judicial body constituted by statute for adjudication of disputes and determination of rights and liabilities of parties within a defined statutory framework.

TTT. The authority constituted under the Impugned Act exercises powers including adjudication of disputes, determination of statutory violations, and imposition of civil consequences through penalties under Section 33 (1) of the Impugned Act and issuance of binding directions. Such powers are characteristic of a "Tribunal" exercising adjudicatory jurisdiction. The conferment of such adjudicatory powers clearly establishes that the Board functions as a tribunal in substance and effect.

UUU. BECAUSE the scheme of Sections 27 and 28 of the Impugned Act unmistakably demonstrates that the Board performs functions which are adjudicatory in nature and which are ordinarily exercised by statutory tribunals determining civil consequences affecting rights and liabilities of parties. However, despite conferring such adjudicatory jurisdiction upon the said authority, the Impugned Act deliberately designates the body as a "Board" rather than constituting it as a "Tribunal" within the settled statutory framework governing specialized adjudicatory bodies in India. The use of the expression "Board" in the statutory scheme therefore constitutes illusory drafting, which does not correspond to the true functional character of the authority created under the Impugned Act. Such illusory drafting of the legislation permits exercise of tribunal-like functions without adherence to constitutional safeguards governing adjudicatory bodies. Therefore, the Impugned Framework is manifestly arbitrary and violative of Article 14 of the Constitution and directly prejudices the Petitioners' functioning within the digital news ecosystem.

VVV. BECAUSE if the authority created under the Impugned Act had been constituted as a tribunal consistent with its adjudicatory functions, the composition of such body would necessarily have been required to conform to the constitutional requirements governing independence, expertise, and presence of judicial members as recognized by this Hon'ble Court in the decisions governing tribunalisation of judicial functions. The designation of such adjudicatory authority as a "Board", despite entrusting it with tribunal-like powers, therefore results in circumvention of constitutionally recognized safeguards applicable to statutory tribunals exercising similar jurisdiction.

WWW. BECAUSE this Hon'ble Court in ***Roger Mathew v. South Indian Bank Ltd.*** has held that a tribunal intended to discharge adjudicatory functions involving civil consequences must possess a "dominant judicial character" through its chairman, members and presiding officers, and that where adjudicatory jurisdiction is transferred from courts to statutory tribunals, the composition of such tribunals must ensure standards of independence, competence and judicial experience comparable, as far as practicable, to those of the courts whose jurisdiction they seek to supplement or replace. This Hon'ble Court reiterated that it is a fundamental pre-requisite for transferring adjudicatory functions from courts to tribunals that the latter must possess the same capacity and independence as the former and that members and presiding officers of such tribunals must have significant judicial training and legal experience. Therefore, where a statutory authority exercises tribunal-like functions but is not constituted in conformity with these constitutional safeguards, it becomes constitutionally invalid and liable to be declared unconstitutional to the extent it violates Articles 14 of the Constitution.

XXX. BECAUSE the composition of the Board therefore fails to satisfy the standards of institutional independence and judicial competence recognized by this Hon'ble Court and consequently renders the statutory framework governing the constitution and functioning of the Board manifestly arbitrary and violative of Article 14 of the Constitution of India and liable to be declared unconstitutional to the extent it vests adjudicatory jurisdiction affecting civil consequences in a body lacking the requisite judicial character and independence.

YYY. BECAUSE this Hon'ble Court further held that members discharging judicial functions in tribunals must ordinarily be drawn from sources possessing expertise in law and competence to discharge judicial functions, and that appointment of technical members in substitution of judicial members, in matters not requiring specialized technical expertise, would amount to dilution of adjudicatory standards and encroachment upon the independence of the judiciary and the rule of law. The relevant paragraph from ***Union of India v. Madras Bar Association*** is as follows:

> *"35. ... **If Tribunals are to be vested with judicial power hitherto vested in or exercised by courts, such Tribunals should possess the independence, security and capacity associated with courts.**"*

ZZZ. BECAUSE the Board therefore fails to satisfy the constitutional requirements governing tribunalization of adjudicatory functions recognized by this Hon'ble Court and is consequently manifestly arbitrary and violative of Article 14 of the Constitution to the extent it vests adjudicatory jurisdiction affecting rights and liabilities in a body lacking the requisite judicial character, independence and institutional safeguards and is therefore liable to be declared unconstitutional. The Board entrusted with such broad powers, lacks the requisite judicial character, independence and institutional safeguards and is therefore liable to be held unconstitutional.

AAAA. BECAUSE Section 19(3) of the Impugned Act prescribes that the Chairperson and Members of the Board shall be persons of ability, integrity and standing possessing special knowledge or practical experience in specified fields including data governance, administration, dispute

resolution, information and communication technology, digital economy, law, regulation or techno-regulation, and further provides only that at least one among them shall be an expert in the field of law. However, the expression *'expert in the field of law'* is left wholly undefined and unguided, without prescribing any objective criteria, qualifications, or threshold of experience, thereby rendering the requirement vague and susceptible to subjective and inconsistent interpretation. The provision does not clarify whether such *'expertise'* must be judicial, adjudicatory, academic, or merely advisory in nature, nor does it require any demonstrable experience in adjudication or application of law. Consequently, the said provision does not mandate the presence of judicial members or require that persons appointed to the Board possess qualifications or experience comparable to those ordinarily required for members of statutory tribunals exercising adjudicatory jurisdiction.

BBBB. BECAUSE the constitutional principle of separation of powers requires that adjudicatory functions involving determination of rights and liabilities, and the imposition of civil consequences, be exercised either by judicial bodies or specialized adjudicatory for a that are institutionally independent of executive control. The Impugned Act nevertheless vests the Board with such adjudicatory powers, despite the Board remaining subject to executive control and there being no statutory requirement for inclusion of judicial members.

CCCC. BECAUSE Rule 17 of the Impugned Rules reinforces the executive-dominated constitution of the Board. It provides that the Chairperson and Members of the Board shall be appointed by the Central Government upon the recommendation of a *"Search-cum-Selection Committee"*. In respect

of the Chairperson, the Committee is chaired by the Cabinet Secretary and includes Secretaries to the Government of India in the Department of Legal Affairs and the Ministry of Electronics and Information Technology (***"MeitY"***). The appointment process is thus wholly controlled by the Executive and does not provide for any independent judicial or non-executive participation.

DDDD. BECAUSE such an appointment framework is inconsistent with the constitutional requirements of institutional independence applicable to specialized adjudicatory bodies exercising tribunal-like jurisdiction, as recognized by this Hon'ble Court.

EEEE. BECAUSE the appointment mechanism of the Board is structurally incompatible with the constitutional principles governing the independence of adjudicatory bodies. Rule 17 of the Impugned Rules, read with Section 19 (3) of the Impugned Act, neither requires the appointment of judicial members to be the Board nor ensures judicial participation in the selection process. Rule 17 (2) provides that the *"Search-cum-Selection Committee"* for recommending members of the Board, other than the Chairperson, shall comprise the Secretary to the Government of India in the MeitY as its Chairperson; the Secretary to the Government of India in charge of the Department of Legal Affairs; and two experts nominated by the Central Government. The Impugned Rule 17, which is as follows:

> *(2) The Central Government shall constitute a Search-cum-Selection Committee, with the*
>
> *Secretary to the Government of India in the Ministry of Electronics and Information Technology as the chairperson*

and the Secretary to the Government of India in charge of the Department of Legal Affairs,

and two experts of repute having special knowledge or practical experience in a field

which in the opinion of the Central Government may be useful to the Board as members, to recommend individuals for appointment as a Member other than the Chairperson.

It is thus evident that neither the Board nor the Search-cum-Selection Committee entrusted with recommending its members is required to include judicial member. The selection and constitution of a body exercising adjudicatory powers with civil consequences are thereby left substantially under executive control.

FFFF. BECAUSE this unabridged discretion provided to the Board to impose penalties under the Impugned Section 33 ought to be governed by the Rule of Law, and not by arbitrary or vague considerations which operate without adequate guardrails. In this context, the doctrine of proportionality, as is a settled law by this Hon'ble Court, also notes that the penal provisions should be based on equity and rationality, and be applied in a strict sense. However, in the present case, the Impugned Act suffers from various lacuna, *inter alia* being:

a. BECAUSE there exists no clear and objective yardstick for the imposition of the quantum of penalty, save and except the broad factors enumerated under Section 33(2), thereby vesting the Board with excessive discretion.

b. BECAUSE Section 33(2) fails to prescribe any clear principles or guiding criteria to ensure that the penalty imposed is proportionate

to the nature, gravity, and impact of the personal data breach, resulting in arbitrary and uneven application.

c. Because the imposition of such prohibitive and excessive penalties would cripple the legitimate use of personal data by DNPs and would, in effect, burden and chill their exercise of fundamental rights under Articles 19(1)(a) and 19(1)(g) of the Constitution.

GGGG. BECAUSE the Hon'ble Supreme Court while interpreting the provisions of the Competition Act, 2002 in the ***Excel Crop Care Ltd. v. Competition Commission of India, (2017) 8 SCC 47*** emphasized that the doctrine of proportionality is constitutionally protected under Article 14 and 21 of the Constitution of India, stating that:

> *"92...the penalty cannot be disproportionate and it should not lead to shocking results. That is the implication of the doctrine of proportionality which is based on equity and rationality. It is, in fact, a constitutionally protected right which can be traced to Article 14 as well as Article 21 of the Constitution. The doctrine of proportionality is aimed at bringing out "proportional result or proportionality strict sensu".*

Institutional competence of the Appellant Jurisdiction under the Impugned Framework with the Telecom Disputes Settlement and Appellant Tribunal ("TDSAT")

HHHH. BECAUSE the appellate mechanism under the Impugned Act, which provides for an appeal from the orders of the Board to lie before the TDSAT constituted under Section 14 of the Telecom Regulatory Authority

of India Act, 1997 (***"TRAI Act"***), marks a significant and unexplained departure from the appellate structures contemplated under earlier versions of the proposed data protection bill(s) in India. The Personal Data Protection Bill, 2018, the Personal Data Protection Bill, 2019 and the Data Protection Bill, 2021 contemplated the constitution of a dedicated appellate tribunal for data protection matters, with a further statutory appeal to this Hon'ble Court on substantial questions of law. Subsequently, the Digital Personal Data Protection Bill, 2022 proposed that all appeals from decisions of the Board would lie before the jurisdictional High Courts. The Impugned Act departs from each of these models by vesting appellate jurisdiction in the TDSAT, without disclosing any intelligible basis for doing so.

Previously Proposed Legislation/Bill	**Relevant Provision**
The Personal Data Protection Bill, 2018	*"87. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) or in any other law, an appeal shall lie against any order of the Appellate Tribunal to the Supreme Court of India."*
The Personal Data Protection Bill, 2019	*"75. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law, an appeal shall lie against any order of the Appellate Tribunal, not being an interlocutory order, to the*

	Supreme Court on any substantial question of law."
The Data Protection Bill, 2021	*"76. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or (***) any other law for the time being in force, an appeal shall lie against any order of the Appellate Tribunal (***) to the Supreme Court on any substantial question of law"*
The Digital Personal Data Protection Bill, 2022	*"22. (2) An appeal against any order of the Board shall lie to the High Court. Every appeal made under this section shall be preferred within a period of sixty days from the date of the order appealed against."*

IIII. BECAUSE the absence of any disclosed rationale for selecting a telecom-sector tribunal as the appellate forum for adjudication under a comprehensive personal data protection statute renders the appellate mechanism manifestly arbitrary and lacking in institutional coherence. The designation of Ld. TDSAT as the exclusive appellate forum, in the absence of any intelligible basis or subject-matter nexus with the statutory scheme of the Impugned Act, renders the appellate mechanism manifestly arbitrary, institutionally incongruous, and violative of Article 14 of the Constitution.

JJJJ. BECAUSE Section 14 of the TRAI Act makes it amply clear that Ld. TDSAT was constituted with a specific and limited purpose to adjudicate disputes arising primarily between:

(i) between a licensor and a licensee;

(ii) between two or more service providers;

(iii) between a service provider and a group of consumers; and

(iv) appeals against directions, decisions or orders of sectoral regulatory authorities under specified enactments including the Telecom Regulatory Authority of India Act, the Information Technology Act (in respect of the former Cyber Appellate Tribunal jurisdiction), and the Airports Economic Regulatory Authority of India Act.

KKKK. BECAUSE the legislative scheme of the Impugned Act expressly recognizes under Section 19(3) the adjudication of personal data protection disputes require specialized expertise in domains such as data governance, administration or implementation of laws related to social or consumer protection, dispute resolution, information and communication technology, digital economy, law, regulation or techno-regulation, or in any other field which may be useful to the Board. However, the designation of Ld. TDSAT as the appellate forum lacks any rational nexus with this statutory recognition under Section 19(3) of specialized adjudicatory expertise.

LLLL. BECAUSE the statutory framework governing the constitution of Ld. TDSAT under the TRAI Act neither mandates nor ensures that Members of the Tribunal possess special knowledge or practical experience as required under the Impugned Act in the domain of data governance, administration or implementation of laws related to social or consumer protection, dispute resolution, information and communication

technology, digital economy, law, regulation or techno-regulation, which form the core subject-matter of adjudication under the Impugned Act.

Telecom Regulatory Authority of India Act, 1997	**Impugned Act**
14C ***Qualifications for appointment of Chairperson and Members.*** *- A person shall not be qualified for appointment as the Chairperson or a Member of the Appellate Tribunal unless he—* *(a) in the case of Chairperson, is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court;* *(b)* ***in the case of a Member, has held the post of Secretary to the Government of India or any equivalent post in the Central Government or the State Government for a period of not less than two years or a person who is well versed in the field of technology, telecommunication, industry, commerce or administration.]"***	*"19. (3) The Chairperson and other Members shall be a person of ability, integrity and standing who possesses* ***special knowledge or practical experience in the fields of data governance, administration or implementation of laws related to social or consumer protection, dispute resolution, information and communication technology, digital economy, law, regulation or techno-regulation****, or in any other field which in the opinion of the Central Government may be useful to the Board, and at least one among them shall be an expert in the field of law."*

MMMM. BECAUSE the Hon'ble Supreme Court in ***Union of India v. R. Gandhi (2010) 11 SCC 1 (Supra)*** has recognized that the legitimacy and effectiveness of tribunal adjudication depend upon the presence of appropriate subject-matter expertise among members of the tribunal. The Impugned Act does not provide for any requirement that members of Ld. TDSAT possess expertise in data protection law. Therefore, entrusting appellate scrutiny of decisions of the Data Protection Board to a tribunal constituted for adjudication of telecom-sector disputes renders the statutory appellate remedy institutionally inadequate and ill-suited to the nature of disputes arising under the Impugned Act.

NNNN. BECAUSE the expression *"Technical Member"* within the scheme of specialized tribunals necessarily presupposes domain-specific expertise in the subject-matter over which the tribunal exercises jurisdiction. The conferment of appellate jurisdiction under the Impugned Act upon TDSAT, whose statutory composition is designed primarily for adjudication of telecommunication and broadcasting regulatory disputes, is therefore arbitrary, unreasonable, and inconsistent with the object of specialized adjudication recognized by Parliament itself under Section 19(3) of the Impugned Act.

OOOO. BECAUSE special legislations ordinarily provide for appellate oversight through tribunals structurally aligned with the subject-matter jurisdiction of the primary regulatory authority constituted under the statute. Such alignment ensures institutional coherence within the statutory framework and enables effective appellate scrutiny by a forum possessing familiarity with the regulatory architecture governing the field in question.

Legislation	**Appellate Forum**	**Relevant Provision**
Securities and Exchange Board of India Act, 1992	Securities Appellate Tribunal (SAT)	*"15K. (1) The Central Government shall by notification, establish one or more* ***Appellate Tribunals to be known as the Securities Appellate Tribunal to exercise the jurisdiction****, powers and authority conferred on such Tribunal by or under this Act 91[or any other law for the time being in force]."*
Companies Act, 2013	National Company Law Appellate Tribunal (NCLAT)	
Competition Act, 2002	National Company Law Appellate Tribunal (NCLAT)	
Electricity Act, 2003	Appellate Tribunal for Electricity (APTEL)	

PPPP. BECAUSE the designation of Ld. TDSAT as the exclusive appellate forum under Section 29 read with Section 2(a) of the Impugned Act suffers from lack of subject-matter nexus, absence of institutional competence, and arbitrariness in legislative design, and is therefore liable to be declared unconstitutional.

QQQQ. BECAUSE the designated role of the Ld. TDSAT as the sole appellate forum in the Impugned Act bears no intelligible differentia having nexus with the object of the Impugned Act, which regulates

processing of digital personal data across sectors of the economy and is therefore violative of Article 14 of the Constitution.

RRRR. BECAUSE presently Ld. TDSAT exercises jurisdiction across multiple statutory sectors including telecommunications, broadcasting, matters arising from the jurisdiction earlier exercised by the Cyber Appellate Tribunal under the IT Act and appeals under the Airports Economic Regulatory Authority of India Act. The conferment of exclusive appellate jurisdiction over decisions of the Board upon an already burdened tribunal is likely to substantially increase its adjudicatory workload and undermine the effectiveness of the appellate remedy contemplated under the Impugned Act, particularly when disputes under the Impugned Act involve time-sensitive regulatory consequences.

SSSS. BECAUSE a piece of subordinate legislation (Rule 23 of the Impugned Rules) cannot be in derogation/ abrogation of the parent statute. It is settled law that a statutory authority cannot make any rule or regulation which is inconsistent or repugnant to the enabling legislation. A subordinate legislation must yield to statutory provisions of the parent legislation and cannot be inconsistent with the same. In this regard, the Hon'ble Supreme Court in the case of ***Kerala State Electricity Board vs. Thomas Joseph (Civil Appeal Nos. 9252-9253 of 2022)***, has observed:

> "71...*The doctrine of ultra vires envisages that a rule making body must function within the purview of the rule making authority conferred on it by the parent Act. As the body making rules or regulations has no inherent power of its own to make rules, but derives such power only from the statute, it has to*

necessarily function within the purview of the statute. Delegated legislation should not travel beyond the purview of the parent Act. If it does, it is ultra vires and cannot be given any effect. Ultra vires may arise in several ways; there may be simple excess of power over what is conferred by the parent Act; delegated legislation may be inconsistent with the provisions of the parent Act or statute law or the general law; there may be non- compliance with the procedural requirement as laid down in the parent Act. It is the function of the courts to keep all authorities within the confines of the law by supplying the doctrine of ultra vires."

21. It is most respectfully submitted that the Petitioners have not filed any other similar writ petition before this Hon'ble Court or any courts of law. This is the first Writ Petition filed by the Petitioner before this Hon'ble Court.

22. The Petitioners, having no other alternative efficacious remedy are approaching this Hon'ble Court on the following grounds which are in the alternative and without prejudice to one another. The Petitioner seeks leave of this Hon'ble Court to alter, add, amend the grounds as mentioned in the present petition:

PRAYER:

In the light of the facts and circumstances stated above, the Petitioners humbly pray that this Hon'ble Court may graciously be pleased to:

a) Issue a writ in the nature of *mandamus* or any other appropriate writ, order or direction to declare under Article 13(2) that Sections 7, 17(2), 18, 19,

27, 29, 36, 37, and 44(3) of the Digital Personal Data Protection Act, 2023 read with Gazette Notification G.S.R. 843/E0 dated 13.11.2025, being ultra vires of the Constitution of India, and the Digital Personal Data Protection Rules, 2025 as being inconsistent with Article, 14, 19(1)(a), 19(1)(g), and Article 21;

b) Issue a writ in the nature of *mandamus* or any other appropriate writ, order or direction declaring that the substituted clause (j) of Section 8(1) of the Right to Information Act, 2005, which brought into force through Section 44(3) of the Digital Personal Data Protection Act, 2023, is *ultra vires* the Constitution; and

c) Issue a writ in the nature of *mandamus* or any other appropriate writ, order or direction in the interest of justice;

d) Pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances.

AND FOR THIS ACT OF KINDNESS, THE PETITIONERS SHALL AS IN DUTY BOUND, EVER PRAY.

FILED BY:-

M.V. Mukunda

MAMIDIPUDI VENKATARAMA MUKUNDA

Advocate for the Petitioners

Drawn on: **06.10.2026**

Place: ~~New~~ Delhi

Filed on: **06.10.2026**

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. _____ OF 2026
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

DIGITAL NEWS PUBLISHERS ASSOCIATION & ANR. ...PETITIONERS

VERSUS

UNION OF INDIA & ANR. ...RESPONDENTS

CERTIFICATE

Certified that the Writ Petition is confined only to the pleadings before the Court whose order is challenged and the other documents relied upon in those proceedings. No additional facts, documents or grounds have been taken therein or relied upon in the Writ Petition. It is further certified that the copies of the documents/annexures attached to the Writ Petition are necessary to answer the question of law raised in the petition or to make out grounds urged in the Writ Petition for consideration of this Hon'ble Court. This Certificate is given on the basis of the instructions given by the Petitioner/person authorised by the Petitioner whose Affidavit is filed in support of the Writ Petition.

FILED BY:

M.V. Mukunda

MAMIDIPUDI VENKATARAMA MUKUNDA

Advocate for the Petitioners

Place: New Delhi

Filed on: **06.10.2026**

IN THE HON'BLE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO. OF 2026

IN THE MATTER OF:

DIGITAL NEWS PUBLISHERS' ASSOCIATION & ANR. ....PETITIONERS

VERSUS

UNION OF INDIA & ORS. ....RESPONDENTS

AFFIDAVIT

I, Sujata Gupta, [redacted]

solemnly affirm and declare as under:

1. That I am the Authorized Signatory of the Petitioner No.1 Association in the abovementioned petition. I am authorize to swear this affidavit on behalf of Petitioner No.1 Association. I am fully conversant with the facts of the case.

2. I say that the contents of Synopsis & List of Dates at pages **B** to **Q** and contents of Writ Petition as-contained at para **1** to **5** at pages **1** to **69** are true to my knowledge and information derived from the record of the case and questions of law raised in the petition, grounds and para 1 of the Writ Petition and Interlocutory Applications at Page **678** to **694** are true as per the legal advice received and believe by me are true and correct.

NOTARY PUBLIC
Appt By
Govt. of India
Regd. No. 16971
Area Delhi/NCR
Juris Extd. Whole India
Expiry Date
1 Feb 2030
MINATI RANI MOHAPATRA

3. That the contents of averments made in the writ petition are true and correct to the best of my knowledge. I say that the Annexure P-1 to P-13 contained in pages 70 to 677 produced alongwith the Writ Petition are true and correct.

4. That the averments of facts stated herein above are true to my knowledge and belief, no part of its false and nothing material has been concealed therefrom.

DEPONENT

VERIFICATION

I, the above deponent hereinabove do hereby verify the contents of para 1 to 4 of this affidavit to be true and correct to the best of my knowledge and belief. I state that no part of this affidavit is false and nothing material has been concealed therefrom.

Verified at on this 05 OCT 2026 day of , 2026.

DEPONENT

IDENTIFIED

ATTESTED

MINATI RANI MOHAPATRA
NOTARY DELHI-R-16971
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND
REGISTER Pg./Sr.

NOTARY PUBLIC
App By Govt. of India
Regd. No. 16971
Area Delhi/NCR
Juris Extd. Whole India
Expiry Date 1 Feb 2030
MINATI RANI MOHAPATRA

MINATI RANI MOHAPATRA
ADVOCATE (NOTARY)
Mob. No.: 8130128457

05 OCT 2026

IN THE HON'BLE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO. OF 2026

IN THE MATTER OF:
DIGITAL NEWS PUBLISHERS' ASSOCIATION & ANR. ....PETITIONERS

VERSUS

UNION OF INDIA & ORS. ....RESPONDENTS

AFFIDAVIT

I, Ms. Yukta Mudgal, [redacted] do hereby solemnly affirm and declare as under:

1. That I am the Petitioner No.2 herein and as such I am conversant and acquainted with the facts and circumstances of the instant case. I am competent and authorized to affirm this affidavit.

2. I say that the contents of Synopsis & List of Dates at pages **B** to Q and contents of Writ Petition as-contained at para **1** to **5** at pages 1 to 69 are true to my knowledge and information derived from the record of the case and questions of law raised in the petition, grounds and para 1 of the Writ Petition and Interlocutory Applications at Page 678 to 694 are true as per the legal advice received and believe by me are true and correct.

Seal of the Notary Public
Saket District Courts, New Delhi-17

3. That the contents of averments made in the writ petition are true and correct to the best of my knowledge. I say that the Annexure P-1 to P-13 contained in pages 70 to 677 produced alongwith the Writ Petition are true and correct.

4. That the averments of facts stated herein above are true to my knowledge and belief, no part of its false and nothing material has been concealed therefrom.

Yukta

DEPONENT

VERIFICATION

I, the above deponent hereinabove do hereby verify the contents of para 1 to 4 of this affidavit to be true and correct to the best of my knowledge and belief. I state that no part of this affidavit is false and nothing material has been concealed therefrom.

Verified at 06 OCT 2026 on this ___ day of , 2026.

I Identify the Deponent Who Has Signed/Put In My presence

Yukta

DEPONENT

The Seal of the Notary Sl. No. 36019 JOGINDER KUMAR Advocate App. Govt. of India Area-NCT of Delhi 12 Saket District Courts, New Delhi-17

CERTIFIED THAT THE DEPONEN
Shri / Smt. / Km. Yukta Mudgal
S/o. W/o.
R/o
Identified by Sh. K P Singh Adv.
Has solemnly affirmed before me at Delhi 12 Sl. No.
That the contents of the affidavit which have been & explained to him are true and correct to the Knowledge

New Delhi (INDIA)

06 OCT 2026