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RIGHT TO INFORMATION AND RIGHT TO THE PRIVACY OF PATIENTS

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Introduction

Supreme Court follow out the connection the conflict between the right to security and the right to data -raised in Naresh Sridhar Mirajakar v. State of Maharashtra case, was about permitting the suppression of the identity of HIV or AIDS infected person whether medically acquired otherwise.

The Supreme Court while industry through the above issue took a precedence of the judgment of New South Wales. The Court observed that regardless of whether HIV contamination is procured restoratively or in any case, unmistakably the individual who is tainted with HIV is probably going to be presented to a few shames including awful exposure and noteworthy segregation making it hard for him to arraign the procedure under the steady gaze of a Court of Law. Thusly, the Court held that The Court can generally allow the injured party, the solicitor, or the party before it to mask its character at the appropriate stage and indict or safeguard the procedures in the approved name in genuine situations and the interests of the organization of equity. However, the Court said nothing regarding right to security, there is an obvious sign for the need to ensure the right to protection of HIV contaminated people from society.

Again, in Mr. X of Bombay Indian Inhabitant v. M/s. ZY, the issue of protection of the identity of HIV infected person on the grounds of their right to protection which is a vital Article 21 of the Constitution guarantees the right to lifewere brought before the Supreme Court. The Division Bench of the Court passed an order allowing the applicant to stifle his character and consequently, to be named as "Mr X" and furthermore coordinated that the respondent organization be named "ZY".

The learned guidance for the solicitor and the respondent tended to the Court on the part of the prerequisite of non-exposure of the character of the candidate in such matters and presented that taking into account the disgrace which is connected to HIV disease, the individual tainted with HIV might be hesitant to move toward the Court of rule with dread that the divulgence of his HIV position might open him to social ostracization & furthermore separation in varying social statuses. It is, along these lines, submissively presented that this is the right methodology and subsequently, such people ought to be allowed in the procedure under the watchful eye of the Court to stifle their character.

Similarly, in the Supreme Court ruled in Mr. X v. Hospital Z that, while the 'right to security' is a key right under Art. 21 of the Constitution, it is not a fundamental right however it's anything but an outright right & limitation can be forced on it for the anticipation of wrongdoing, turmoil or assurance of wellbeing or ethics or insurance of privileges and opportunity of others. Right to wed is a fundamental component of right to security, however it isn't outright. Each marital law gives that if one party to the marriage is experiencing transmittable venereal disease it is available to the next party to the union with cancel the marriage or in different cases can look for separate. In the moment case, by unveiling about the appealing party's sickness, the respondent clinic had not infringed on the litigant's right to protection under Article 21 of the Constitution.

Whether a voter's right to information of assets of an elected candidate is a violation of his private rights - in the matter of People's Union for Human Rights, the Supreme Court was asked a question Civil Liberties v. Union of India. According to the court, privacy is essentially concerned with the individual. As a result, it has something to do with overlapping with the notion of liberty.

Even the most ardent proponents of privacy must concede that defining the right's core and scope is challenging. Other rights and concepts must be considered while considering the right to privacy and autonomy. In this case, it was also held that by requiring contesting candidates to disclose their spouse's assets and liabilities, the fundamental right to information of a voter/citizen is promoted. When the right to privacy of an individual competes with the right to information of citizens, the former must be subordinated to the latter because it serves the greater public interest. If only shortened information about the assets and liabilities is provided, the right to know about a candidate who wishes to become a public figure and a representative of the people would be ineffective and real.



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However, in *Ram Jethmalani and Ors. v. Union of India* and *Orsthe Court* upholding the general people's right to know is of the view that right to privacy is a fundamental element of the right to existence & right to seclusion cannot be abridged in the absence of a prima facie case in the context of an investigation against unaccounted money in Swiss bank.¹⁷ The petitioner, in this case, seeking access to information regarding individuals whose names were in the CBI SIT report for allegedly keeping money in Swiss banks.

In *BPSC v. Saiyed Hussain Abbas Rizwi & Anr.* The Hon'ble Court managed the subject of the legality of the arrangement of the job of 'State inspector of Questioned Documents', in control Laboratory in Crime Investigation Department, Government of Bihar, Patna. The solicitor requested the name, assignment and the names and addresses of the topic experts on the Interview Board and furthermore the names and addresses of the up-and-comers who showed up alongside different rules of choice of up-and-comers below the RTI Act, 2005.

The Court while allowing the appeal holds the view that queries as to the details of the expert of consultation board are excluded from revelation under the Sec. 8(1)(g) of the RTI Act, on the ground that if such data is unveiled, it might jeopardize their actual wellbeing. Clarifying the plan of the Act, the Court expressed that it mulls over for establishing a functional system of right to data for residents to limit access to data significantly impacted by open experts in order to promote transparency and accountability in the operation of each open power. While targeting furnishing free admittance to data with the object of making government more straightforward and responsible, it should consider one more significant right of a resident secured inside the soul of Art. 21 of the Constitution, that is, the right to security. Hence, the right to data must be offset with the right to protection inside the structure of the law.

The central issue in *Union of India v. D.S. Meena* was the Chief Information Commissioner's approval of the dissemination of a third party's Annual Confidential Reports (CIC). The Union of India filed an appeal against the CIC's decision. Hearing the appeal, the Hon'ble Court reviewed the matter of a public official's right to privacy and confirmed the judgment of *Kameshwar Prasad v. State of Bihar*, which said that a person's right to private is not subsumed by their holding a public office. . However, right to privacy of a public servant can be infringed in furtherance of a larger public interest, but such public interest must be clear and evident from the request.

In *Supreme Court Advocates-on-record-association and Ors.v. Union of India* case the sacred legitimacy of the Constitution (Ninety-10th Amendment) Act, 2014 and the National Judicial Appointments Commission Act, 2014 are below defy. Notwithstanding the previously mentioned issues, with respect to the question of straightforwardness, an accommodation was made that about arrangement of judges, common society has the privilege to realize who is being considered for arrangement.

The Court declared the Constitution (Ninety-ninth Amendment) Act, 2014 and the National Judicial Appointments Commission rule, 2014, as illegal & canceled relying on numerous landmark cases, According to Art. 21 of our Constitution, the right to know is a basic right that people of a free nation strive for in the more expansive context of the right to live in this era in our territory. The Court additionally held the harmony among straightforwardness and secrecy is exceptionally fragile and if some touchy data about a specific individual is unveiled, it can affect his/her standing and respect. The NJAC Act and the 99th Constitution Amendment Act have not been signed into law observed the protection worries of a person.

In *Asahi Glass India v. Director General of Investigation and Registration*, the candidate looked to suppress request procedures started against it on charges of cartelization. The candidate battled in addition to other things that the request would bring about a break of security as Sec. 49 of the Monopolies and Restrictive Trade Practices Act, 1969 would commit it to outfit data undermining its protection. The court held that the before referenced area contained a special case; the solicitor could decline to present data in accordance with a 'sensible reason' being demonstrated. The candidate looked to control the respondent, the distributor of a week after week, from distributing bury alia, family photos of the candidate joined by reviews evening out charges of defilement. The appealing party had battled that these photos contained pictures of his better half and negligible youngster who were not associated with his public office and public demonstrations and thus the distribution of their pictures contemporaneously encroached their right to security. The court conceded an interval directive limiting the respondent from distributing any such news stories well as photos of the offended party spouse and minor kid. It is relevant to make reference to the commitment of the Universal Declaration of Human Rights, 1948 in the emergence of right to privacy as a significant human right. Since then, this right never looks back for want of recognition. UDHR recognition becomes a turning point for the right, because, thereafter many conventions on the international sphere came forward to recognize the right. The Convention on Rights of the Child draws a special mention as it ensures the privacy of children which



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encourage many countries to enact special laws on the protection of identity of teenager who are the victim of sexual offences. With the emergence of these conventions, the interpretation and scope of privacy as a right has been expanded to include various aspects of life and eventually receive the constitutional status.

The route to the constitutional recognition of right to privacy seems to be very struggling in and around the world. Primarily, Constitution-makers took a very skeptical view towards this right however, of late the right has been recognized in some Constitution. The Constitution of India does not expressly recognize the right to privacy is not expressly stated in the Constitution, but it is implicit in the rights to life and personal liberty Art. 21. Since, Kharak Singh's case an initiative has been taken up to recognize the right as a necessary component of life and personal liberty, perhaps through minority judgments. However, the Auto Shankar case and PUCL case⁴ set the trends for the appreciation of privacy as an important personal right. Over the past 60 years, the Indian judiciary both at the state level and apex level made many endeavors to acknowledge the right and as a result of such enormous enthusiasm, finally, true recognition to the right comes through the landmark decision in K.S. Puttaswamy's case. The Constitutional Bench of Judges unanimously holds right to privacy as part and parcel of dignity. Privacy and dignity deliberate inalienable value to life and liberty within the constitutional paradigm. Right to security as a significant part of right to life and individual freedom ensures a zone of decision and self-assurance for the person.

Right to isolation has got the special mention in Art. 19(1) (a) with reference to freedom of push and right to know It is set up that instructive protection is an aspect of the right to security. The threats to protection during a time of data can start from the state as well as from non-state entertainers too. We have been witnessed several instances of confrontation between privacy and press from time to time. Use of new techniques in journalism like sting operation often attacks on the reputation of a person, also raises questions on the protection of privacy. Intrusive journalism, sensitization of personal matters of hi-profile masses, TRP ratings are the order of the day. There are several occasions, since the Jessica Lal murder case including the Arushi Murder case to the recent Sheena Bora Murder case, the role of media has been questioned due to its pre-trial judgment in the circumstances when the matter was sub judice. Although media houses justify their activities on the ground of public interests, such aggressive journalism blows serious threats to the right. While taking undoubtedly, "right to privacy" has attained a very respectable position in current time, but to make it more prominent we need a sui generis legislation on privacy. Till date, this right has been protected in different statutes not as a whole but under various aspects. Hence, specific legislation with a more specific definition of the concept of right to privacy is need of the day. Meanwhile, countries such as the United States, Australia, and Canada, as well as institutions such as the European Union, the Asia-Pacific Economic Corporation (APEC), and the Organization for Economic Cooperation and Development (OECD), develop privacy principles to protect personal data and prevent harm to individual privacy. Motivating from these guidelines The Group's Report of Expert headed through Justice A.P. Shah recommended some privacy principles to be followed by Indian legislators in drafting a law on privacy.

Right to privacy being the important right deserves to be carefully explored and should not be rejected to anyone unless it is to satisfy compelling state interests. It is our utmost duty to cause the requirement for making a law of security to ensure the prosperity of our general public. This new law ought to be accommodated with the standards of privacy interests as well as compelling interests so that we may have a very harmonious relation among and between them.

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