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1986

Rajan, R. V. (1986). Media laws in India. In AMIC Seminar on Media Laws and Regulations in Asia : Singapore, Jan 7-8, 1986. Singapore: Asian Mass Communication Research & Information Centre.

<https://hdl.handle.net/10356/86467>

Media Laws In India

By

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INTRODUCTION :

'The Press in India' wrote John Kenneth Galbraith 'is free but co-operative'. He was talking about the early '60s. But his remarks could well have summed up two decades of the Indian free Press from 1947 to 1967. In those days the media scene was dominated by the five giants in the English language Press viz., Times of India, Hindustan Times (Delhi), Indian Express (chain of papers), Statesman (Calcutta) and of course 'The Hindu' in the South. All these papers saw themselves as papers of record and partners in Government. Their aim was not to do anything quite as vulgar as expose injustice but to keep their readers informed and help the Government reach the right decisions.

In 1968, Journalists began to come to terms with the fact that the relationship between Government and the Press was set to change.

When Mrs Gandhi nationalised the banks, had Mr Sanjeeva Reddi defeated in the elections for President, and promulgated an ordinance de-recognising the Princes, Press decided that it was an open war. The way Mrs Gandhi used All India Radio as a Govt. owned media to propogate her own parties' views, did not help improve matters much. Mrs Gandhi had shown the Press that she really did not need any of them. All of this should have prepared the Press for June 25, 1975, the 'Blackest Day' in Indian Journalism. But it did not. When the moment of truth came, the Journalists were left groping in the dark, literally, because the Govt.

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shut off power supply to the newspaper offices in Delhi.

The watershed in Indian Journalism was the emergency. Since then, things have never been quite the same. And even today, 10 years later Journalists are reckoned by how they behaved during those troubled years.

This, in a way helped the Press as well. Editors and Journalists came out in their true colours and people were able to distinguish between the cowards and courageous, the lackeys and the defiants.

It was also at this precise moment that Press in India decided to re-discover its role, to re-affirm its faith in the ideals of democracy at the cost of risking the wrath of the Government in power. Nothing was sacred anymore except truth, no instruction, no person, no issue was beyond inquiry or investigation. This has also led to an open debate in the Press on the various acts . restricting the flow of information to the Press.

Let us look at some of these acts to see how they are affecting the news flow not only to the Press but also the flow of advertisements, which after all is a major source of income to the media.

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CONSTITUTION & THE PRESS

The Constitution of India in its section 19 1A) gives the freedom of speech and expression to any individual and under section (G) also allows them to practice any profession or to carry on any occupation, trade or business. The same Constitution also provides that the freedom of speech can be exercised, provided it is not against the interest of the sovereignty and integrity of India, the security of the State, friendly relationships with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement. Breach of these provisions are considered to be offences.

It is in the interpretation of these provisos that a number of other 'laws' also came into being, which, depending on the interpretation, tend to affect the freedom of the Media.

Any discussion on Freedom of Media or Laws affecting Media in India, necessarily restricts itself to the Freedom of the Press, because the other two Mass Media like Radio & TV are Government owned and offer less scope for free expression of individual opinions.

PRESS AND THE JUDICIARY

THE CONTEMPT OF COURTS ACT 1952 provides that the High Court, as, a Court of record can punish for contempt of itself and Courts subordinate to it, irrespective of whether the contempt is committed within or outside the jurisdiction and irrespective of whether the alleged contempt is for the time being at a place within or outside such jurisdiction. It is an act, that limits the powers of certain courts in punishing of the contempt of courts. The contempt can be civil or criminal. Civil contempt means wilful disobedience to any judgement, decree, direction, order, writ or other courses of a court, or wilful breach of an undertaking given to a court.

Criminal contempt means the publication (whether by words, spoken or written, or by signs or by visible representations or otherwise) of any matter or the doing of any other matter whatsoever, when one

- 1) Scandalises or tends to scandalise, lowers or tends to lower, the authority of any court
- 2) Prejudices or interferes or tends to interfere with due course of any judicial proceedings
- 3) Interferes or tends to interfere, obstructs or tends to obstruct the administration of justice in any other manner.

The object underlines the contempt jurisdiction of a Court of law is not so much to vindicate the dignity of the Court or the person of the judge but to prevent undue interference in the administration of justice.

Apart from the Contempt of Courts Act, Article 129 of the Constitution provides that the Supreme Court being a court of record, it shall have the power to punish for contempt of itself while Article 215 clothes the High Court with identical powers. These powers are, it is worth noting, exercisable summarily so that proceedings of the Court do not have to conform to the long-drawn out, time-consuming procedures of an ordinary trial.

What is striking about these provisions is that though innocuous themselves they do not indicate precisely the situations that will attract the opprobrium of the law of contempt. By far, the most common complaint of any journalist, for eg., has been what they perceive as the weakness and general nature of these provisions which leave a frighteningly vast degree of discretion to judges.

It is significant that the attitude of judges to the contempt has been by and large liberal and in conformity with the practice in England. Barring a few isolated instances Courts generally tends to avoid being over-sensitive to criticism.

Equally, if not imore important, is the other aspect of the contempt jurisdiction (viz) the sub judice rule which prevents public comment on pending matters. The basis of the rule is to be found in the principle that nothing is more incumbent upon the Courts of justice than to preserve their proceeding from being misrepresented nor anything of more pernicious consequence than to prejudice the minds of the public against persons, concerned parties in cases that are pending adjudication.

The 1971 Act also introduced certain other salutary changes. For instance, it gave protection to innocent publishers and distributors from Criminal contempt (other than the scandalising of courts) if they had no reason to believe that judicial proceedings were pending at the time. It also permitted fair and accurate publication of proceedings in Court, (except where such publications were prohibited without attracting the penalty of the contempt). More important, it laid down that a sentence of imprisonment was not imposed on a contemnor unless the contempt is of such a nature that it substantially interferes with or tends to interfere with the due course of justice. The act also sought to confirm punishment of contempt to a maximum of Rs.2000/- or imprisonment of six months.

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The 1971 Act also prescribed a limitation of one year within which all contempt proceedings have to be initiated. Another welcome change it introduced related to the laying down of an elaborate procedure for hearing contempt cases by certain kinds of Benches as also for appeals. Finally, it states explicitly that judges, magistrates and other persons acting judicially could also be found guilty of contempt of their own courts.

CODE OF CRIMINAL PROCEDURES :

This Code enables the Government to forfeit every issue of a newspaper or book whenever it appears to them that it contains matters that brings hatred or contempt or excites disaffection towards the Government. It extends to the whole of India except the State of Jammu & Kashmir. The Act came into force on April 01, 1974.

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CONTEMPT OF LEGISLATURE

In India the legislative privileges are governed by Article 105 (in relation to Parliament) and Art.194 (in relation to State Legislatures) of the Constitution. These provisions confer on them the powers, privileges and immunities as enjoyed by the House of Commons as of 26 January 1950, the day on which the Indian Constitution came into being. Roughly stated the conflict has arisen between the wholesale acceptance of the unwritten privileges of the House of Commons by the Indian Parliament & State Legislatures functioning under the Constitution which guarantee a set of fundamental rights like the freedom of speech and expression. It also includes freedom of Press. So far, the judiciary has not been able to resolve the conflict between the privileges of the law-makers and the fundamental freedom of the citizens. Since Journalists are none other than citizens, the gordian knot lies elsewhere.

Articles 105 & 194 have conferred on the Indian Legislature, the powers enjoyed by the House of Commons pending their framing laws defining their own powers. This neither the Parliament, nor State Legislatures have done, though 36 years have rolled by since the Constitution was adopted. The result is the permanent confusion and occasional confrontation. In a landmark case involving a Daily called 'Searchlight' in Madhya Pradesh, the

Supreme Court ruled that the privilege enjoyed by the Parliament and State Legislatures under Art. 105 & 194 on the analogy of the House of Commons practices were not subject to Art.19(1A). Therefore, the House was within its rights to prohibit publication of any report of its debates even if the prohibition contravened the fundamental right of free speech. It went on to say that both were Constitutional laws and not ordinary laws. So, it invoked the doctrine of harmonious construction. In the process, it pronounced that Art.19(1A) being of the general nature must yield to specific provisions under Art. 105(3) & 194 (3). The redeeming feature of the judgement was that the Supreme Court accepted the contention, that if a law were to be made by Parliament or State Legislatures under Articles 105 & 194, as the case may be, such a law would be subject to Art. 19(1A).

According to a study on Parliamentary privileges and freedom of the Press done by the Indian Law Institute in 1981 for Press Council of India, the Supreme Court, in its advisory opinion concedes to Legislatures' power to punish for contempts. To the citizens it concedes that the order of the Legislature will be justiciable. Nevertheless, it makes it clear that the judicial control over the legislatures' powers of committal is meagre. It specifically says that 19 (1A) of the Constitution cannot over-ride legislature privileges. The Court can only look into it from within the ambit of Article 21 (the demand of natural justice etc.)

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Parliament & State Legislatures still refuse to pass legislation as required under the Constitutional provision to define their privileges as they are afraid that such legislations will come under the surveillance of Article 19 (1A) and freedom of speech and expression within the ambit of which lies the freedom of the Press.

As of now, the Indian Press has a very fragile defence. There is a Parliamentary proceedings (protection of Publication Act of 1956), Passed at the initiative of Late Feroz Gandhi, the act was repealed in 1975 during emergency but re-enacted in 1977. This Article 361A in the Constitution which gives newspapers a measure of immunity provided the reports of Parliamentary proceedings as also that of State Legislatures are substantially true and not coloured by malice. Another small but powerful weapon in the hands of Speakers of the Lok Sabha is Rule 380 of the Lok Sabha which reads :

"If the Speaker is of the opinion that words have been used in debates which are defamatory or indecent or unparliamentary or undignified, he may in his discretion, order that such words be expunged from the proceedings of the House".

If the words used do not constitute any of these well-known offences they simply cannot be deleted by the Speaker. But the limitations of the rule have been continually ignored.

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DEFENCE OF INDIA ACT 1971

This Act provides special measures to ensure public safety and interest, the Defence of India and Civil Defence for the trial of certain offences and matters connected therewith. The Central Government can make rules for prohibiting any publication or communication prejudicial to Civil Defence or Military operations ; requiring the publication of news and information ; Prohibiting the printing or publication of any newspaper, news sheet, book or other documents, containing matter prejudicial to the Defence of India ; demanding security from any Press used for the purpose of printing or publishing and forfeiting copies of any newspaper, news sheet; closing down any Press on any premises used for the purpose of printing or publishing of any such newspaper etc.

INDIAN OFFICIAL SECRETS ACT 1963

This Act was copied from its British predecessor, the Official Secrets Act 1911. The act broadly speaking falls into two parts :- One concerns espionage and the other which affects the Press deals with unauthorised disclosure of official information. Shorn of verbiage, Section 5 of the act lays down that if any person having in his possession any document or information which has been entrusted to him in confidence by any Govt. official or which he has obtained as an official communication to any person, other than the person to whom he is authorised to communicate it he shall be guilty of an offence. So also a person who receives such document or information knowing or having reasonable ground to believe that it is being communicated in breach of the act.

Later, the act was amended to penalise disclosure of documents or even information which is likely to affect friendly relations with foreign States. Considering the gross abuses to which the widely worded expression has been shifted to, especially in the case of films and books, the amendment can be regarded as a statutory threat to press freedom. Although, the laws are identical the Indian citizen suffers a gravest handicap, for in Britain only the Attorney-General can initiate a prosecution for violation of the Act and when he does so, he acts in a quasi-judicial capacity and independently of the Government. In contrast, section 13 (3) of the Indian Act enables the launching of a prosecution directly by the Government itself. The act was reviewed twice but rather perfunctorily so.

INDIAN PENAL CODE 1868

Indian Penal Code 'Prohibits anything that brings or intended to bring into hatred or contempt or excites disaffection towards Government, promote or attempts to promote feeling of enmity or hatred between different classes of citizens of India'. It provides that 'a book, pamphlet, paper, drawing, writing, painting, representation, figure or any other object shall be deemed to be obscene if it is lascivious or appeals to the prurient interest or its effect is such as to tend to deprave or corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matters contained or embodied in it'.

In 1960, an amendment to section 292 (A) was incorporated which added thus "whoever sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation for purpose of sale, hire, distribution, public exhibition or circulation makes, produces or has in his possession any obscene book, pamphlet, drawing, representation or figure or any tother obscene object whatsoever advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence or that any such obscene object can be procured from or through any other person, offers or attempts to do any act under this section, shall be punished on first conviction with imprisonment of either description for a term which may extend to 2 years and a fine

which may extend to Rs.2,000/- and in the event of 2nd or subsequent conviction with imprisonment of either description for a term which may extend to 5 years and also a fine which may extend to Rs.5,000/-"

ANTI-SCURRILTY ACT 1982

Not content with the provisions of the Indian Penal Code, the Tamil Nadu Government passed in 1982, an amendment to the Indian Penal Code which brought in an Anti-Scurrilous Act which seeks to make the publication of grossly indecent or scurrilous matter or matter intended for black mail - cognisable and non-bailable, and to increase the punishment for those convicted. According to the Tamil Nadu Chief Minister, the Act is a must and is only a shield to protect the people from slander. The act itself has been challenged in the Supreme Court. The Court has stayed operations of this section and no decision has been taken, as yet.

If this act comes into being it is possible for the TN Government to intimidate the journalist and newspaper men as well as newspaper vendors with threats of summary proceedings which was not the case before. All that is necessary for a police officer who in his limited vision, considers any material grossly indecent or scurrilous, to arrest newspaper men or newspaper vendors and hold them in jail for some provision of code of some criminal procedures can be brought into play.

Inspired by the TN Government Press Bill, the Bihar Government headed by the then Chief Minister Mr Jaganath Mishra also passed the infamous Bihar Press Bill in July 1982 which had brought a storm of condemnation upon his head. This act, however, was repealed exactly after one year while the act was itself waiting for Presidential assent.

According to reports, another Government in the South(viz) Andhra Pradesh, headed by the former Film actor N T Rama Rao is proposing to place before its legislature a similar Draconian bill.

PUNJAB SPECIAL POWERS PRESS ACT 1965

In addition to the provisions in the Indian Penal Code for any kind of writing which instigates communal tension, there have been acts passed by State Government and others to provide powers to the Government to take action against people who incite communal tension. One such act is the Punjab Special Powers Press Act 1965.

The section 2(1) of the Act reads that the State Government or any authority so authorised in this behalf if satisfied that such action is necessary for the purposes of preventing or combating any activity prejudicial to the maintenance of communal harmony affecting or likely to affect public orders made by order in writing addressed to printer, publisher or editor,

- a) Prohibiting the printing or publication of any class of documents or any matter relating to a particular subject or class of subjects for a specified period or in a particular issue or issues of newspaper or periodical
- b) Provided that no such order shall remain in force for more than two months in the making thereof.
- c) Provided, further that the person against

whom the order has been made may within 10 days of the passing of the order, make representations to the State Government which may on consideration thereof modify, confirm or rescind the order.

Clause B authorised the State Government or any officer authorised by it to require that any matter covering not more than 2 columns be published in a particular issue or issues of a newspaper or periodical on payment of adequate remuneration and specify the period during which and the manner in which such publication can take place.

In a case filed against this Act by a Delhi Editor, the Supreme Court gave a judgement according to which, 'circumstances may arise when the social interest in public order may require a reasonable subordination of social interest of free speech and expression, to the needs of social interest of public order.

In 1970, a Seminar on the role of 'Mass Media Communication in reporting communal or ethnic tensions' was held in New Delhi under the auspices of Press Information Bureau and Press Institute of India as part of the programme launched by the National Integration Council.

The Seminar produced a set of 3 documents: A long term programme of the Media to propagate national integration; A code of conduct for reporting group tensions and an 8-point outline of arrangements to be made at times of emergency and tensions to ensure flow of

accurate information.

The Code makes some important points such as use of statistics, photographs and identification of the community of the victim violated. While there has been hue and cry about the Government's attitude towards the Press, there is also the other side to the coin under which there is a charge that the Press has been over-stepping its limits, and playing a dangerously partisan role like in the case of the recent happenings in the Gujarat State in Western India.

The spotlight, therefore, has once again turned on that the need of thorough re-appraisal of the journalistic function.

The demands are being vigorously renewed for the enactment of an exhaustive code of conduct for newspapers and journalists, which some advocates have changed going so far as to suggest stringent penal sanction against violations of such a code. There has been a debate on the subject and the consensus of opinion has so far been against any legally enforceable code of conduct because of fears of that it might be misused. It is interesting that under the joint auspices of the Press Council and the Indian Law Institute, New Delhi a book titled 'Violation of Journalists' ethics and Public Taste' edited by Mr S N Jain has been published. This book is a compendium of

decisions rendered by the Press Council over the years. The cases have been classified under 6 broad heads.

1. COMMUNAL WRITINGS
2. RIGHT OF REPLY
3. NON-VERIFICATION OF NEWS
4. DEFAMATION
5. OBSCENITY
6. JOURNALISTIC IMPROPRIETY
7. BAD TASTE

A brief summary of the facts of each case is followed by the Councils' ruling. At the end of each section the principles deduced from the ruling are enumerated. Also included a good measure of reproduction of the Press Council procedure for inquiry regulations 1979.

LAWS AFFECTING ADVERTISING IN MEDIA

Advertising has become an important social and economic force in the world today. In India, thanks to the liberalised business practice of the new Government and the general shift from a seller's market to the buyer's market in almost all product categories, advertising has come to play, even more important role in the Indian context. It is, therefore, essential that in any unfair advertisement practices, likely to alienate public confidence should be eliminated. Recognising the need for regulating such advertising the Government has passed a number of legislations affecting advertising in the country. Following Acts and Rules are some of them.

1. DRUGS & COSMETICS ACT, 1940
2. DRUGS CONTROL ACT, 1950
3. DRUGS & MAGIC REMEDIES (Objectionable advertising) Act, 1954
4. TRADE & MERCHANDISE MARKS ACT, 1958
5. COPYING ACT, 1957
6. PREVENTION OF FOOD ADULTERATION ACT, 1954
7. PHARMACY ACT, 1948
8. PRICE COMPETITION ACT, 1955
9. EMBLEMS AND NAMES (Prevention of Improper use) ACT, 1950

Almost all the above acts lay down specific guidelines for advertisers indicating what they

'can' and 'cannot' say in advertisements. We will just look at two of their acts, because the other Acts have similar provisions affecting the subjects dealt with by them.

THE DRUGS AND COSMETIC ACT, 1940 enables the Government to regulate the import, manufacture, distribution and sale of drugs and cosmetics. It authorises the Central Government to constitute the Drugs Technical Board the Central Drugs Laboratory and the Drugs Consultative Committee to carry out the provisions of the Act. The Government can prohibit the import of any drug or cosmetic which is not of standard quality or which is misbranded or adulterated or prohibited under the rules. It can also prohibit the manufacture for sale, or sell or stock or exhibit for sale or distribute any drug or cosmetic. The Act provides punishment for use of Government Analyst's report for advertising. The Act provides separate provision for Ayurvedic (including Sidha) and Unani Drugs.

DRUG AND MAGIC REMEDIES (Objectionable Advertisements) ACT, 1954 is to check the increase in number of objectionable advertisements published in newspapers or magazines or otherwise relating to alleged cures for venereal diseases, sexual stimulants and alleged cures for diseases and conditions peculiar to women. These advertisements tend to cause the ignorant and unwary to resort to self medication with harmful drugs and appliances, or to resort to quacks who indulge in such adverts.

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for treatment which cause great harm. The Act deems it necessary in public interest to put a stop to such undesirable advertisements. It controls drug advertisements and also publicity advertisements; advertisements of remedies stated to possess magical remedies. An advertisement includes any notice, circular, label, wrapper or other documents and announcement made orally or by any means of producing or transmitting light, sound or smoke.

In India, Radio and TV are entirely owned by the Government. The Government has established the code under which some rules of conduct in advertising have been formed which are enlisted below

GENERAL RULES OF CONDUCT IN ADVERTISING :

1. Advertising should be so designed as to conform to the laws of the country and should not offend against morality, decency and religious susceptibilities of the people.
2. No advertisement should be permitted :
 - i) which derides any race, caste, colour, creed, nationality except wherein such usage would be for the specific purpose of effective dramatization, such as combating prejudice ;
 - ii) which is against any of the objectives, principles or provisions of the Constitution of India ;
 - iii) which will tend to incite people to crime or to promote disorder, violence or breach of law ;
 - iv) which presents criminality as desirable or furnish details of crime or imitation thereof

- v) which would adversely affect friendly relations with foreign States ;
- vi) which exploits the national emblems, or any part of the Constitution, or the person or personality or national leader or state dignitary ;

3. In all other respects, the Director General All India Radio, will be guided for purposes of commercial broadcasting and telecasting in All India Radio by the Code of Ethics for Advertising in India issued by the Advertising Council of India (relevant excerpts appended), as modified from time to time.

4. Notwithstanding anything contained herein, this Code is subject to such modifications and directions as may be made/issued by the Government of India from time to time.

In addition to the above, the Advertising Council of India has also formed a Code of Ethics for advertising in India, the excerpts of which are given below :-

1. Advertising should be so designed as to conform not only to the laws but also to the moral, aesthetic and religious sentiments of the country in which it is published.
2. No advertisement likely to bring advertising into contempt or disrepute should be permitted. Advertising should

not take advantage of the superstition or ignorance of the general public.

3. No advertisements of talismans, charms and character reading from photographs or such other matter as will trade on the superstition of general public shall be permitted.
4. Advertising should be truthful, avoid distorting facts and misleading the public by means of implications and omissions. For instance, it should not mislead the consumer by false statements as to :
 - a. the character of the merchandise, i.e., its utility, materials, ingredients, origin etc.
 - b. the price of the merchandise, its value, its suitability or terms of purchase.
 - c. the services accompanying purchase, including delivery, exchange, return, upkeep, etc.
 - d. personal recommendations of the article or service. Testimonials which are fictitious and/or fraudulent or the originals of which cannot be produced must not be used. Any one using testimonials in advertisements is as responsible for the statements made : them as he would be if he had made them himself.
 - e. the quality of the value of competing goods of the trustworthiness of statements made by others.

5. No advertisement should be permitted to contain any claim so exaggerated as to lead inevitably to disappointment in the mind of the public. Special care is called for the following cases :
 - a. Advertisement addressed to those suffering from illness. (In this respect the Code of Standards of Advertising in relation to medicine must be adhered to).
 - b. Advertisements inviting the public to invest money. Such advertisements should not contain statements which may mislead the public in respect of the security offered, rates of return, or terms of amortisation.
 - c. Advertisements inviting the public to take part in lotteries or competitions such as are permitted by law or which hold out the prospect of gifts. Such advertisements should state clearly all the conditions for the lottery or competition or the conditions for the distribution of the gifts.
 - d. The publication of employment notices requiring fees for application forms, prospectus, etc. and security deposits should be forbidden except when such advertisements emanate from Governmental or quasi-Governmental sources.
6. Methods of advertising designed to create confusion in the mind of the consumer as between

goods by one maker and another maker are unfair and should not be used. Such methods may consist in :

- a. the imitation of the trademark or name of competitor or the packaging or labelling of goods; or
- b. the imitations of advertising devises, copy, layouts or slogans.

7. Advertising should endeavour to gain the goodwill of the public on the basis of the merits of the goods or services advertised. Direct comparison with competing goods or firms and disparaging references are in no circumstances permitted.

8. Indecent, vulgar, suggestive, repulsive or offensive themes or treatment should be avoided in all advertisements.

This also applies to such advertisements which in themselves are not objectionable as defined above, but which advertise objectionable books, photographs or other matter and thereby lead to their sale and circulation.

9. No advertisement should offer to refund money paid.

10. The use of National Emblems is prohibited by law in advertisements, trademarks, etc., except by Governments or Governmental agencies. Also use of the picture of Mahatma Gandhi, the President, the Vice-President and the Prime Minister of India is forbidden in such adver-

tisements, trademarks, etc. except by previous permission. This rule does not apply to advertising of books, films or other items in which these personages form the chief subject.

CODE OF STANDARDS IN RELATION TO THE ADVTG. OF MEDICINES AND TREATMENTS.

This Code has been drafted for the guidance of advertisers, manufacturers, distributors, advertising agents, publishers and suppliers of various advertising media. The harm to the individual that may result from exaggerated misleading or unwarranted claims justifies the adoption of a very high standard and the inclusion of considerable detail in a Code to guide those who are concerned with this form of advertising.

Newspaper and other advertising media are urged not to accept advertisements in respect of any product or treatment from any advertiser or advertising agent who disregards the provisions of this Code in any form of advertising or publicity relating to that product or treatment.

The provisions of this Code do not apply to an advertisement published by or under the authority of a Government, Ministry or Dept, nor to an advertisement published only in journals circulated to Registered Medical Practitioners, Registered Dentists, Registered Pharmacists or Registered Nurses. ,

Both All India Radio and the nationalised TV network insist on approving scripts of any kind of sponsor programme ideas and have the right to reject any programme which they do not consider as conforming to the generally accepted code for advertising.

The Press in India which is still a very major medium follows a code of advertising ethics as formulated by the Advertising Council of India. In addition, some papers have their own policies of not accepting liquor advertising or cigarette advertising e

Government, both at the Central and at the State level, is a very major advertiser in newspapers, which clout, the Government uses often to teach lessons to papers which do not toe the Government lines by refusing Government advertisements to such papers.

A recent case in point is the case of 'Dinakaran' a Tamil Opposition Daily which filed a writ petition against TN Government for denying advertising of the State Govt. to the Daily. It has claimed that this is contravening the fundamental rights of the publications to carry on its business with the powers of freedom of speech sanctioned under the Article 19 (1A) of Indian Constitution. The case is pending. The Govt. does use its powers to sanction newsprint quota, and control some papers which do not toe its line.

CONCLUSION :

While the pre-emergency witnessed a comparatively docile Press has been far more volatile. Infact, debates and discussions on 'Freedom of Press' has been an ongoing thing for the last 9 years. The Government, under the Janatha Party passed 'The Press Council Act, 1978' to establish a 29 member Press Council for the purpose of preserving the freedom of Press and for maintaining and improving standards of newspapers and news agencies in India.

The new youthful Government under Mr Rajiv Gandhi, has been far more liberal on the subject of freedom of expression. Infact, even Government owned media like All India Radio and Television are now allowed to express the points of view of the Opposition, especially during the electi times.

A programme titled 'Janavani('Peoples Voice on TV, is providing a forum for the general public to question the Ministers on the functioning of their respective Departments. This programme is seen by millions of people all over India on TV every month. Similarly, a programme called 'Current Affairs' produced by a private party and compered by that famous editor Mr AJ Akbar conducts an open debate/discussion on Government policie and programmes.

This is a great step forward in the attitude of the Government towards Mass Media and let us hope that in their new found freedom the Press do not lose their case by crossing the limits of decency but act responsibly. This is necessary if they have to preserve, their freedom as well as the democracy in the country.

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