

ACCESS TO INTERNET IS A BASIC RIGHT, SAYS KERALA HIGH COURT

Relevant for: Indian Polity | Topic: Indian Constitution - Features & Significant Provisions related to Fundamental Rights, Directive Principles and Fundamental Duties

The Kerala High Court on Thursday held that the right to have access to the Internet is part of the fundamental right to education as well as the right to privacy under Article 21 of the Constitution.

Justice P.V. Asha made the observation while ordering the Principal of Sree Narayanaguru College, Kozhikode, to re-admit a student who had been expelled from the college hostel for using her mobile phone beyond the restricted hours.

The court observed, "When the Human Rights Council of the United Nations has found that the right of access to Internet is a fundamental freedom and a tool to ensure right to education, a rule or instruction which impairs the said right of the students cannot be permitted to stand in the eye of law."

The verdict came on a petition filed by Faheema Shirin, a third-semester B.A. English student of the college at Chelanur, challenging her expulsion for not adhering to restrictions on the use of mobile phone. As per the rules of the girls' hostel, inmates were restrained from using mobile phones from 6 p.m. to 10 p.m. every day. She, along with a few other inmates, had protested against the restriction, as it was hampering their learning process.

She contended that the use of mobile phones amounted to a violation of fundamental right to freedom of speech and expression under Article 19(1)(a) of the Constitution. In fact, the internet, accessible

through mobile phones or laptops, provided an avenue for the students to gather knowledge.

The Judge observed that the action of the college authorities infringed the fundamental freedom as well as privacy and would adversely affect the future and career of students who want to acquire knowledge and compete with their peers, such

restriction could not be permitted to be enforced.

The court while citing the observations of the Supreme Court in the *S.Rengarajan and others v. P. Jagjivan Ram* (1989) case said that "the fundamental freedom under Article 19(1)(a) can be reasonably restricted only for the purposes mentioned in Article 19(2) and the restriction must be justified on the anvil of necessity and not the quicksand of convenience or expediency."

The court added that the hostel authorities were expected to enforce only those rules and regulations for enforcing discipline. Enforcement of discipline shall not be by blocking the ways and means of the students to acquire knowledge

The court further said that college authorities as well as parents should be conscious of the fact that the students in a college hostel are adults capable of taking decisions as to how and when they have to study.

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