
THE CIVIC COMMONS: REMAKING QUINTESSENTIALS OF RESTORING PUBLIC INTEREST

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The Writ Petition filed in the matter of The Reporter's Collective Trust and Anr. Vs. Union of India and Anr. (2026) in the hon'ble Supreme Court has issued notice to the Union government on the pleas challenging certain provisions of Digital Personal Data Protection Act (DPDP), 2023 and Digital Personal Data Protection Rules, 2025 amidst amendments of the provisions under Right to Information Act (RTI), 2005

'When its about individuals own interest, he may tend to injure the public interest but a state in protecting general welfare may check the interest of a part of its population.'

The judicial practice is often defined by an inescapable irony: it must act as the shield for the individual, yet frequently finds itself compelled by law to sacrifice that very individual at the altar of public interest in the process of delivering the justice. There have been certain incidents in the past where the judiciary has delivered the verdicts based on the reasoned standing. A challenge that has gained central attention is the writ petition filed by Venkatesh Nayak, National Campaign for People's Right to Information, The Reporter's Collective, Nitin Sethi focusing on section 44 (3) of the Digital Personal Data Protection Act which has amended section 8(1)(j) of the Right to Information Act, 2005 which provides for the exemption from disclosure of information. Earlier, the provisions of RTI allowed access to personal information only under a structured test and permitted disclosure, if lay in the larger public interest. This section stated that any information which relates to personal information, the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the 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.

The Government of India passed the Digital Personal Data Protection Act, 2023 with a view to safeguard people's digital privacy while permitting the legitimate handling of personal data. However, three Supreme Court petitions have contented that certain aspects of this new privacy

framework and its rules have advertently weakened transparency rules, erected obstacles for public interest journalism and increased state authority over personal data without sufficient protections. An examination into the cases leads one of question;

Whether DPDP framework strikes a proportional balance between privacy and other essential democratic protections? Can information about a public official's conduct truly be called private? Is the constitutional problem rather than denial of privacy as a right.

In the past key regulations have given the processing of digital personal data and establishes enforcement mechanism via the Data Protection Board of India in DPDP Act. The legislation concerns areas where privacy interacts with transparency and expression, especially the right to information ecosystem but also aims to operationalize the constitutional recognition of privacy as part of Article 21 and the DPDP rules which were announced following a public consultation procedure, provide the implementation specifics. Several provisions of the DPDP framework particularly those that impact transparency and public interest reporting are excessive overboard and inadequately protected in violation of Article 14, 19 and 21.

The impugned issues under Section 44(3) of DPDP Act which modified Section 8(1)(j) of RTI Act through an amendment. It is in conflict as it has provided an expansion to the scope of personal information under the DPDP Act as and including assets, educational qualifications, disciplinary actions and minutes of public meetings which has limited the jurisdiction of RTI Act as now only the union government under Rule 23 of DPDP Rules 2025 can demand information from digital platforms and prohibits them from informing individuals whose data is required. This restriction has stipulated sealing off data related to a public official's activity, thereby rendering the transparency and act as "public interest override" creating a clear blanket ban on exemption on sharing any personal information of any public officials.

Prior to that RTI legislation only authorized the rejection of personal information in accordance with a structured criteria and the disclosure was never failures permissible. When amendments broaden the definition of an exemption, they restrict a Public Information Officer's ability to balance privacy against the public interest. Consequently, certain types of information become practically unavailable, even when they directly concern public activity or accountability. This contradicts the principles established in the landmark *Justice K.S. Puttaswamy* judgment, which dictates that any limitation on a fundamental right must pass a strict proportionality test and employ the least restrictive means possible.

The DPDP Act of 2023 and the DPDP rules 2025 create a blanket ban on the right to information as it completely forbids the seeking of information under the RTI Act, thereby protecting it under the folder of personal information which the act contented to be violation of the right of the privacy that has been recognized in the judgment of the *Justice K.S. Puttasamy v. Union of India*¹, (2017). However, the ratio of the judgment has not been followed, which states that privacy is not an absolute right but it is subject to reasonable restriction. That the right while the drafting of the legislation, as in the aspect of the right to information, has been coined in the several judgments and has been violated by the act and the rules. In *Supreme Court of India v. Subhash Chanda Agarwal* (2020)² the court also held that Section 8(1)(j) of the RTI act, this section creates the balance between the privacy and public interest on the pace of DPDP Act and rules being unconstitutional.

The DPDP Act and the Rules 2025 are arbitrary and inadequate in nature since the test for arbitrariness that has been given in *Shayara Bano v. Union of India*, (2017)³ and states that a law has to be made capriciously irrational or without “adequate determining principle”. The manifest arbitrariness could also be checked by the parameters if-

a provision lacks an “adequate determining principle” i.e. the shift from a calibrated disclosure regime under the RTI Act to a blanket prohibition under the DPDP framework, which marks a transition from ‘rule of law’ to ‘rule by exclusion’, precisely what the doctrine of adequate determining principle seeks to prevent. Moreover, if the purpose is not in consonance with constitutional values while considering the validity of the act the court must also consider the “ostensible purpose” And the “real purpose” And;

Without being understanding the ideal classification between the information to be provided for public interest or relation which would not cause any unwanted invasion as the proportionality of the restriction that is having the blanket ban on the on section 8(1)(j) of the RTI act which is in violation of the principle of the constitution enshrined in the article 14 and 19(1)(a) which is the right to freedom of free speech and expression which the court have recognized in *Romesh Thapper v. State of Madras*, (1950).⁴

The writ contends that media outlets and journalist gathering personal information for

¹ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1

² Supreme Court of India v. Subhash Chanda Agarwal (2020) 5 SCC 481

³ Shayara Bano v. Union of India (2017) 9 SCC 1

⁴ Romesh Thapper v. State of Madras (1950) SCC 436

investigations may be regarded as data fiduciaries in the absence of a mere exemption for public interest journalism, resulting in the contest and requirements that are practically not possible for an investigation report. Additionally, it has been pointed the possibility that data subjects might request deletion which could complicate public interest reporting and frequent verification in delicate investigations. The chilling effect is the invitation in corporate personal data even in cases when the reporting has a justifiable public interest. As observed in *Shri Sancha Bahadur Subba v. State of Sikkim & Others*, (2018)⁵, accountability in the discharge of one's duties and the privacy of a public servant cannot be of a larger concern than the public interest in transparency and accountability of governance in containing corruption. Be it more precise of the fact that even a remote connection of any personal information with large public interest is considerable, which in no circumstances invade the privacy, which erodes the objective of blanket ban as per the rules. Moreover, Section 36 of DPDP Act gives the central government the authority to the quest information from a data produced is contested in these authorities to decide for potential appointment extensive digital searches without sufficient procedures, protections, independent authorization. Additionally, there is possibility of arbitrary uses getting increased owing to the lack of a clear or review process against orders. In *Vinod Dua v. Union of India* (2020)⁶, the concern was raised by the court to provide true and fair information, therefore, it is highly necessary for journalists and media professionals to critically review the activities of individuals of groups, being impactful towards greater public interest including government and other officials. The case proves the retaining of right by journalist being fourth pillar of democracy.

The Data Protection Board of India which has the authority to find and carry out judicial duties is responsible for enforcing the DPDP framework, because the state is a significant collector of personal data and the appointment structure under the announced rules establishes executive control raising questions about institutional independence and impartiality. These concerns draw parallels to digital privacy, relating to risk of mass surveillance without judicial oversight. The union government has received notice from the Supreme Court on these issues. The DPDP framework has not yet haunted the fundamental issues have been designed for additional hearing before a bigger bench of the constitutional bench because they are deemed constitutionally significant. What the government may probably claim is that, the framework gives rights to preserve privacy, harmonizes conflicting revelations and lesson conflicts

⁵ *Shri Sancha Bahadur Subba v. State of Sikkim & Others* 2018 SCC OnLine Sikk 61

⁶ *Vinod Dua v. Union of India* (2020) 3 SCC 323

between privacy and transparency specially in connection with disclosures of personal information according to the government. The state is expected to defend the RTI modification by arguing that it is in line with privacy and that is related to make limitation that keeps RTI from being abused for invasive access to personal data. The golden triangle of the constitution that is Article 14, Article 19 and Article 21 are the heart of this conflict encircling non arbitrariness, free expression and democratic accountability and privacy. It will test how courts use the proportionality requirement in cases where it is claim that privacy protective regulation necessarily restrict general freedom and openness. The question of whether the enforcement regulators architecture guarantees two independent bodies: when the executive is both the rule maker and a significant data collector is another issue that brings up the structural governance.

A significant turning point in India's developing digital constitutionalism is the supreme Court's stand against the DPDP Act. The need for robust legal protection for privacy rather the content data privacy legislation cannot be crafted in any way that would render public accountability, journalism and transparency impassible. The final ruling will probably influence how India strikes a balance between open governance, and also determine how far the state will go in gathering or requesting access to personal data without strict viewable protections.