
CASE COMMENT: THE CHANCELLOR, MASTERS & SCHOLARS OF THE UNIVERSITY OF OXFORD & ORS. V. RAMESHWARI PHOTOCOPY SERVICES & ANR. 2016

Rishabh Lalwani, BBA LLB, UPES

CITATION: 2016 SCC OnLine Del 5128

BENCH: Pradeep Nandrajog, Yogesh Khanna

DATE OF JUDGEMENT: 9 December, 2016

Introduction

The decision in *The Chancellor, Masters and Scholars of the University of Oxford v Rameshwari Photocopy Services* is one of the most significant pronouncements in modern Indian copyright jurisprudence¹. Commonly known as the Delhi University Photocopy Case, the dispute addressed whether the reproduction of copyrighted academic materials through photocopied course packs constitutes copyright infringement under Indian law. The controversy generated intense legal, academic, and public debate because it raised profound questions about the relationship between intellectual property rights and the accessibility of education in a developing society.

Copyright law operates on the premise that authors and publishers require economic incentives to produce creative and scholarly works. Academic publishers argue that without robust protection, the financial model sustaining scholarly research would collapse. According to data published by the International Association of Scientific, Technical and Medical Publishers, the global academic publishing market was valued at approximately USD 25.7 billion in 2017, reflecting the enormous commercial interests at stake in any dilution of copyright protection². At the same time, copyright systems recognize that certain socially beneficial uses

¹ *The Chancellor, Masters & Scholars of the University of Oxford v Rameshwari Photocopy Services* (2016) 227 DLT 78 (Del).

² International Association of Scientific, Technical and Medical Publishers, 'The STM Report: An Overview of Scientific and Scholarly Publishing' (4th edn, STM 2018) 22.

of protected material must remain permissible. A 2012 study by the World Intellectual Property Organization found that over 149 countries had enacted some form of educational exception to copyright, reflecting an international consensus that unconstrained protection would impede access to knowledge³.

The Delhi University Photocopy Case arose from this tension. Major international academic publishers alleged that photocopying portions of their textbooks to create course packs constituted infringement of their reproduction rights. The defendants argued that such reproduction fell within the educational exception under Section 52 of the Copyright Act 1957⁴. In 2016, Justice Rajiv Sahai Endlaw dismissed the publishers' claims in their entirety, holding that the preparation of course packs constituted a legitimate act done in the course of instruction within Section 52(1)(i) of the Act⁵. This commentary examines the facts, legal framework, judicial reasoning, comparative jurisprudence, constitutional dimensions, and broader policy implications of this landmark judgment.

Background and Facts

The plaintiffs were three of the world's most prominent academic publishers: Oxford University Press, Cambridge University Press, and Taylor & Francis Group. Their scholarly textbooks and monographs form an essential part of academic curricula across the world, particularly in the social sciences, humanities, and law. The dispute originated at the University of Delhi, one of India's largest public universities with an enrolment exceeding 300,000 students. Academic culture there, particularly within the Delhi School of Economics, had long relied upon professors compiling reading lists consisting of chapters and extracts drawn from multiple textbooks rather than prescribing a single book for each course.

These course packs were prepared by Rameshwari Photocopy Services, a modest photocopy shop situated within the Delhi School of Economics campus. Professors supplied reading lists specifying particular chapters, and the shop reproduced those extracts and compiled them into bound packs sold to students at nominal prices. The cost of a course pack was a small fraction of what students would have paid to purchase the corresponding original textbooks, many of which were imported and retailed in India at prices far beyond the means of the average

³ WIPO, 'Study on Copyright Limitations and Exceptions for Educational Activities in North America, Europe, Caucasus, Central Asia and Israel' (WIPO 2012) 14.

⁴ Copyright Act 1957 (India), s 52.

⁵ Copyright Act 1957 (India), s 52(1)(i).

student⁶.

The publishers initiated a civil suit in 2012 before the Delhi High Court seeking a permanent injunction. They alleged that the defendants had reproduced between forty and sixty percent of certain textbooks without authorization or payment of any licensing fee, arguing that the course packs effectively substituted for the purchase of original works and caused significant financial harm. The defendants denied infringement and contended that the course packs fell entirely within the educational exception⁷. An interim injunction initially granted by the court provoked widespread student protests and was subsequently modified to permit continuation of the practice pending the final decision. Several civil society groups, including the Society for Knowledge Commons, filed interventions arguing that any restriction on photocopying would violate the constitutional right to education.

Issues Before the Court

The Delhi High Court was required to address several interconnected legal questions.

1. whether the photocopying of extracts from copyrighted textbooks to create course packs constituted infringement under Section 14 of the Copyright Act 1957.
2. the scope of the educational exception under Section 52(1)(i) and whether the preparation of course packs fell within the phrase 'in the course of instruction.'
3. whether the commercial character of the photocopy shop defeated the application of the exception. Fourth,
4. whether any quantitative limit governed the permissible extent of reproduction
5. the court was required to balance the rights of copyright holders against the public interest in access to education - an exercise with significant implications for students, publishers, and educational institutions across India.

Legal Framework

The dispute centred on the interpretation of Section 52 of the Copyright Act 1957, which

⁶ Ananth Padmanabhan, *Intellectual Property Rights: Infringement and Remedies* (LexisNexis 2012) 289.

⁷ *The Chancellor, Masters & Scholars of the University of Oxford v Rameshwari Photocopy Services CS(OS) 2532/2012* (Delhi High Court, interim order, 8 October 2012).

enumerates acts that do not constitute infringement. Section 52(1)(i) exempts 'the reproduction of any work by a teacher or a pupil in the course of instruction'⁸. This provision was materially broadened by the Copyright (Amendment) Act 2012, which aligned Indian copyright law with the WIPO Copyright Treaty and introduced enhanced protections for educational reproduction⁹. The legislative history of the 2012 amendment is instructive: the Parliamentary Standing Committee on Human Resource Development expressly noted that the educational exception was intended to facilitate access to knowledge and must be construed generously in light of the developmental imperatives of the country.

The doctrine underlying Section 52(1)(i) reflects the concept of fair dealing, which permits limited use of copyrighted works for purposes such as research, criticism, and education. Indian courts had previously addressed the scope of this doctrine in important decisions. In *R.G. Anand v Deluxe Films*, the Supreme Court held that copyright protects the expression of ideas rather than the ideas themselves¹⁰. In *Civic Chandran v Ammini Amma*, the Kerala High Court recognized that fair dealing must be interpreted broadly to promote freedom of expression and the public interest¹¹. These precedents established the interpretive framework within which the Delhi High Court approached the present case.

The constitutional dimension of the framework is equally significant. The Constitution of India guarantees the right to life and personal liberty under Article 21, which the Supreme Court has consistently interpreted to encompass the right to education. Article 21A, inserted by the Constitution (Eighty-Sixth Amendment) Act 2002, guarantees free and compulsory education, while the Directive Principles of State Policy under Part IV of the Constitution direct the state to promote educational opportunity for all citizens¹². These constitutional provisions provided important background against which the court interpreted the statutory exception.

Judgment of the Delhi High Court

In his judgment delivered on 16 September 2016, Justice Endlaw dismissed the publishers' suit

⁸ Copyright Act 1957 (India), s 52(1)(i) (as amended by the Copyright (Amendment) Act 2012).

⁹ Copyright (Amendment) Act 2012 (India); WIPO Copyright Treaty (adopted 20 December 1996, entered into force 6 March 2002) 2186 UNTS 121.

¹⁰ *R.G. Anand v Deluxe Films* (1978) 4 SCC 118.

¹¹ *Civic Chandran v Ammini Amma* AIR 1996 Ker 273.

¹² Constitution of India, arts 21, 21A (inserted by the Constitution (Eighty-Sixth Amendment) Act 2002); *Mohini Jain v State of Karnataka* (1992) 3 SCC 666.

in its entirety¹³. The court adopted a purposive and contextual approach to the phrase 'in the course of instruction,' rejecting the narrow construction advanced by the publishers that would have confined the exception to acts performed within the physical space of a classroom during a scheduled lecture. Instead, Justice Endlaw held that the phrase must be understood in light of contemporary realities of higher education, in which learning extends beyond the classroom into libraries, homes, and study spaces, and in which professors exercise their academic judgment by prescribing specific texts to supplement their teaching.

The court reasoned that the preparation of course packs was an integral and indispensable component of the instructional process at Delhi University. Professors, exercising their academic expertise, had determined that selected chapters from multiple texts were necessary to equip students with a comprehensive understanding of their subjects. The physical reproduction of those materials was a logistical step in the educational process that could not be divorced from the instructional purpose to which it was directed. The court cited the 2012 amendment to the Act as further evidence that Parliament intended the educational exception to have a wide and generous application.

On the commercial character of the photocopy shop, Justice Endlaw held that the identity and profit motive of the person performing the physical act of reproduction was legally irrelevant where that person was acting in service of an educational purpose. The court drew an analogy with a bookseller who supplies prescribed textbooks to students: the bookseller's profit motive does not transform the supply of educational materials into commercial exploitation of copyright. Rameshwari Photocopy Services was, in this sense, merely an agent facilitating access to content prescribed by academic staff.

The court further held that the Act imposes no fixed quantitative limit on the educational exception. It declined to adopt a percentage-based threshold and held that the relevant question was whether the reproduction was genuinely made in the course of instruction, irrespective of the volume of material involved. This approach reflects the plain text of Section 52(1)(i), which contains no explicit quantitative restriction¹⁴.

¹³ *The Chancellor, Masters & Scholars of the University of Oxford v Rameshwari Photocopy Services* (2016) 227 DLT 78 (Del) [Endlaw J].

¹⁴ Copyright Act 1957 (India), s 52(1)(i); compare Section 107, Copyright Act of 1976 (USA).

Ratio Decidendi

The ratio decidendi of the case rests upon three foundational legal propositions. First, the expression 'in the course of instruction' in Section 52(1)(i) must be interpreted broadly to include all acts preparatory, supplementary, or ancillary to the teaching and learning process, including the preparation of course packs comprising readings prescribed by academic staff — it is not confined to acts performed within a classroom during a scheduled lecture. Second, the reproduction of extracts from copyrighted works for course packs prescribed by university professors constitutes a legitimate educational act within Section 52(1)(i), even where the extracts reproduced are substantial in quantity. Third, the involvement of a commercial enterprise as the physical agent of reproduction does not negate the educational exception where the underlying purpose and direction of the reproductive act is instructional.

These three propositions collectively establish a broad and purposive interpretation of educational exceptions under Indian copyright law. They shift the analytical focus from the identity of the person performing the reproduction and the quantity of material reproduced to the purpose and context of the act itself — a significant doctrinal development that will guide courts, universities, and practitioners in future disputes.

Comparative Jurisprudence

The reasoning of the Delhi High Court finds significant resonance in international judicial decisions addressing educational exceptions and fair use, though important divergences also exist that illuminate the distinctiveness of the Indian approach.

In the United States, Section 107 of the Copyright Act of 1976 provides a flexible fair use framework. In *Campbell v Acuff-Rose Music Inc*, the United States Supreme Court held that fair use must be applied in a flexible and context-sensitive manner and that no single factor is determinative¹⁵. However, the US Court of Appeals for the Sixth Circuit in *Michigan Document Services Inc v University of Michigan* held that a commercial photocopy shop reproducing materials for course packs without licensing fees did not qualify for fair use, placing considerable weight on the commercial character of the enterprise and the effect on the licensed course pack market¹⁶. The Delhi High Court's approach is notably more permissive than the

¹⁵ *Campbell v Acuff-Rose Music Inc* 510 US 569 (1994).

¹⁶ *Michigan Document Services Inc v University of Michigan* 99 F 3d 1381 (6th Cir 1996).

Sixth Circuit, reflecting the different social context of education in India and the absence of a developed licensing infrastructure comparable to the Copyright Clearance Center in the United States.

In Canada, the Supreme Court in *CCH Canadian Ltd v Law Society of Upper Canada* held that the fair dealing exception must be given a large and liberal interpretation so as to ensure that users' rights are not unduly restricted, and that fair dealing is not a mere exception but a user's right¹⁷. This conceptual shift — from exception to right — is consonant with the Delhi High Court's reasoning and represents an important strand of contemporary copyright jurisprudence in common law jurisdictions. Similarly, in *Authors Guild v Google Inc*, the United States Court of Appeals for the Second Circuit held that uses enhancing public access to knowledge may qualify as fair use even where they reproduce substantial quantities of copyrighted material¹⁸.

The South African Copyright Amendment Bill of 2017 proposed the introduction of a broad fair use exception partly in response to educational needs in a developing country context, reflecting a growing international recognition that traditional copyright frameworks may require adaptation in the Global South¹⁹. Taken together, these international developments suggest that the Delhi High Court's broadly permissive approach to educational reproduction, whilst at the more liberal end of the international spectrum, is consonant with a significant and growing body of comparative jurisprudence.

TRIPS Agreement and Constitutional Analysis

The judgment raises important questions regarding India's obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights. Article 13 of TRIPS permits exceptions to copyright only where they satisfy the 'three-step test': the exception must be confined to certain special cases, must not conflict with the normal exploitation of the work, and must not unreasonably prejudice the legitimate interests of the copyright holder²⁰.

Critics have argued that permitting reproduction of between forty and sixty percent of a textbook without licensing fees may not satisfy the third step, particularly given that licensing

¹⁷ *CCH Canadian Ltd v Law Society of Upper Canada* [2004] 1 SCR 339 (SCC), [48].

¹⁸ *Authors Guild v Google Inc* 804 F 3d 202 (2d Cir 2015).

¹⁹ Copyright Amendment Bill 2017 (South Africa); Denise Nicholson, 'The South African Copyright Amendment Bill: An Analysis' (2019) 34 SAJHR 45.

²⁰ Agreement on Trade-Related Aspects of Intellectual Property Rights (adopted 15 April 1994, entered into force 1 January 1995) (TRIPS Agreement) art 13.

schemes such as those operated by the Copyright Clearance Center and the Publishers Licensing Services provide a commercially available mechanism for obtaining remuneration. The WTO Panel report in *United States — Section 110(5) of the US Copyright Act* acknowledged that the three-step test does not preclude exceptions serving legitimate social policy objectives, provided the balance of interests is reasonable²¹. In the Indian context — where educational institutions cannot afford comprehensive licensing arrangements and students lack the financial resources to purchase all prescribed textbooks — it may reasonably be argued that the educational exception serves a compelling social purpose and does not unreasonably prejudice commercial interests. As Martin Senftleben has observed, the three-step test must be applied with sensitivity to the developmental circumstances of member states, rather than as a rigid instrument for maximising rights-holder revenues²².

The constitutional dimension reinforces the court's approach. The Supreme Court in *Mohini Jain v State of Karnataka* recognized that the right to education flows from the right to life under Article 21²³. In *Unni Krishnan v State of Andhra Pradesh*, the Court held that access to education is an essential prerequisite for the realization of other fundamental rights²⁴. These precedents establish a constitutional framework in which statutes must be interpreted to promote rather than impede educational access. A narrow construction of Section 52(1)(i) that denied students access to affordable course materials would sit uncomfortably with the constitutional guarantee, particularly given that, according to data published by the National Sample Survey Office, over 27% of Indian households cite financial constraints as the primary barrier to participation in higher education.

Policy Implications and Critical Evaluation

The Delhi University Photocopy Case carries significant implications for educational policy, the publishing industry, and the future development of intellectual property law in India and beyond. From a social equity perspective, the judgment recognizes the structural inequalities that constrain access to knowledge in developing countries. A report by the United Nations Special Rapporteur on the Right to Education identified the high cost of academic textbooks as one of the most significant barriers to educational participation in South Asia²⁵. By upholding

²¹ WTO Panel Report, *United States—Section 110(5) of the US Copyright Act* WT/DS160/R (15 June 2000).

²² Martin Senftleben, *Copyright, Limitations and the Three-Step Test* (Kluwer Law International 2004) 89.

²³ *Mohini Jain v State of Karnataka* (1992) 3 SCC 666.

²⁴ *Unni Krishnan v State of Andhra Pradesh* (1993) 1 SCC 645.

²⁵ UN Special Rapporteur on the Right to Education, 'Report on Copyright and the Right to Education' UN Doc

the legality of course packs, the court made a concrete contribution to educational equity and social inclusion.

However, the decision raises legitimate concerns regarding the sustainability of academic publishing. Publishers argue that widespread reproduction without licensing fees reduces revenues and may ultimately discourage investment in scholarly research and editorial work. According to data from the International Association of Scientific, Technical and Medical Publishers, the average price of an academic textbook increased by 88% between 2006 and 2016, reflecting pre-existing financial pressures on the sector²⁶. A middle-ground model, advocated by several commentators and operating in Germany, Australia, and other jurisdictions, involves compulsory licensing: photocopy shops and universities are permitted to reproduce academic materials subject to payment of a statutory royalty collected and distributed by a collecting society. Such a model could reconcile educational access with fair remuneration for creators and merits serious consideration by the Indian legislature.

Scholars such as Lawrence Liang have welcomed the judgment as a contribution to the global access to knowledge movement, arguing that it demonstrates that developing countries can deploy legislative discretion to craft copyright systems that serve the needs of their populations rather than the interests of foreign publishing corporations²⁷. From this perspective, the case joins a growing number of decisions — from Canada, the United States, and South Africa — in which national courts have declined to interpret copyright law in a manner that privileges commercial interests over educational needs.

The principal weakness of the judgment is its failure to establish any quantitative guidance on the permissible extent of reproduction or to engage substantively with the argument that the availability of licensing schemes might render the broad exception disproportionate. By declining to specify any limit, the court has created legal uncertainty that may generate future litigation and has left publishers without a clear remedy where reproductions are genuinely excessive. Detailed guidelines of the kind issued by the Australian Copyright Agency Limited and the UK Copyright Licensing Agency — specifying percentage limits and payment mechanisms — would have provided greater clarity for all parties.

A/HRC/17/29 (2011) para 33.

²⁶ STM Publishers (n 2) 22.

²⁷ Lawrence Liang, 'Copyright, Cultural Production and Open Access' (2016) 8 NUJS L Rev 67, 74.

Conclusion

The Delhi University Photocopy Case represents a landmark moment in Indian copyright jurisprudence. By interpreting the educational exception broadly, Justice Endlaw reaffirmed that copyright law must serve the broader objective of promoting the dissemination of knowledge and must be sensitive to the social and constitutional context in which it operates. The decision reflects a pragmatic and principled reading of the Copyright Act 1957 grounded in the constitutional values of equality, dignity, and the right to life.

The judgment is not the final word on this complex area of law. Questions regarding TRIPS compatibility, the viability of compulsory licensing regimes, and the appropriate scope of quantitative limits on educational reproduction will require further legislative and judicial attention. Policymakers would do well to consider a comprehensive statutory framework that provides clear rules for educational copying while ensuring fair remuneration for authors and publishers through a properly funded collecting society mechanism.

Ultimately, the case demonstrates that copyright cannot be understood solely as a mechanism for protecting private economic interests. It must also function as a dynamic instrument for fostering education, reducing inequality, and securing the free exchange of knowledge upon which democratic societies depend. In charting this course, the decision of Justice Endlaw offers a model of socially responsive judicial reasoning that courts across the developing world may look to with profit.