



Silence is not a virtue

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In a vibrant democracy, there must be free flow of information, not prepublication gag orders. In the mid-1970s, the threat to media freedom was transparent as it was a top-down command. Now, it has taken myriad forms and operates in a subtle fashion. It is akin to a byzantine maze.

No prior restraint

- One of the key tools used to silence a probing press, whose fundamental mandate is to scrutinise those in power, is the prepublication gag order.
- In recent times, gag orders have been coming as an avalanche.
- They are in gross violation of the Supreme Court's 1994 order in *R. Rajagopal v. State of Tamil Nadu*.
- The apex court observed that it was important to strike a balance between the freedom of the press and the right to privacy.
- The court said that the state and its officials do not have the right to impose prior restraints on the publication of materials that may be defamatory to the state.
- But this does not prevent the state from initiating legal proceedings if it finds the published material to be defamatory.

Defamation- India permitting both criminal and civil defamation

- While the higher judiciary retains the space for freedom of expression, the lower judiciary tends to restrict it on untested legal grounds, often bordering on infringement of fundamental rights.
- It is not just governments that opt for prior restraint to silence the media and hamper the flow of information but also powerful corporate houses.
- Only totalitarian regimes prefer silence. A vibrant democracy encourages debate and arguments, and values the need for the free flow of information.