

## Courts Gagging the Media

### Why in news?

\n\n

\n

- A special CBI Court recently issued a gag order prohibiting the press from reporting on the court proceedings of a fake encounter case.

\n

- In another case, Allahabad High Court gagged the media from reporting on an ongoing case concerning hate speech by the CM of Uttar Pradesh.

\n

\n\n

### What is the justification?

\n\n

\n

- The orders were enabled by the Supreme Court itself.

\n

- In 2012, the Supreme Court held that in certain circumstances, courts could pass “postponement orders” barring coverage of specific judicial proceedings.

\n

- The court framed the issue as requiring a balancing of two competing rights: the right to free speech, and the right to a fair trial.

\n

- Observing that sometimes excessive publicity could jeopardise a fair trial, the court held that to the extent it was reasonable and proportionate, “prior restraints” on court reporting could be imposed.

\n

- Allahabad High Court cited that the media reports court proceedings inaccurately to justify the gag order.

\n

\n\n

### Is the justification fair?

\n\n

- \n
- In a Jury system, guilt or innocence is decided by a jury of twelve who do not possess specialised legal training
- \n
- The idea that “media trials” might distort the outcomes of cases makes sense only in such a system.
- \n
- In India we abolished jury trials more than 40 years ago, and it is judges now who decide cases.
- \n
- Judges, by definition, are not only supposed to apply the law but also have to have the relevant training and temperament to be regardless of the public.
- \n
- The 2012 SC order also failed to adequately limit the kinds of cases in which these exceptional “postponement orders” could be passed.
- \n
- It also failed to limit the duration for which they could be passed.
- \n
- This has given ample space for abuse as happened in the recent orders.
- \n

\n\n

### **What should be done?**

\n\n

- \n
- Media misreporting of court proceeding can be rectified by making the written transcripts and recordings of court proceedings available to the public.
- \n
- In some situations, a temporary halt on reporting could be justifiable.
- \n
- But the bar should be limited to a single hearing, and only in the most exceptional of situations.
- \n

\n\n

\n\n

**Source: The Hindu**

\n



**SHANKAR**  
**IAS PARLIAMENT**  
*Information is Empowering*