

Supreme Court Judgement on MediaOne Case

Why in news?

The Supreme Court has ruled against the telecast ban imposed by the Union Government on Malayalam news channel MediaOne.

What is the MediaOne case about?

- **Cancellation of license** - The Information and Broadcasting Ministry (I&B) informed Media One news channel that its broadcast licence had been cancelled citing security reasons.
- **Powers of I&B Ministry** - The powers to regulate content rest only with the I&B Ministry based on the inputs from other ministries, as well as intelligence agencies.
- **Sectors**- Earlier, I&B Ministry had the powers to regulate content across TV channels, newspapers and magazines, movies in theatres and on TV, and the radio, barring the internet.
- The IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, extended its regulatory powers over internet content (digital news platforms and OTT platforms).
- **Emergency powers**- The I&B Ministry adopts emergency powers it has under the new IT Rules to block certain YouTube channels and social media accounts based on inputs from intelligence agencies.

Sector	Powers of I&B Ministry
TV channels	The Ministry has the Electronic Media Monitoring Cell, which tracks channels for any violations of the programming and advertising codes mentioned in the Cable TV Network Rules, 1994.
OTT platforms	For content on OTT platforms too, there is a similar structure like that of TV channels.
Film certification	The Central Board of Film Certification (CBFC) has a mandate to give a film, a rating, indicating the kind of audience it is suitable for. While it isn't the CBFC's mandate to censor a film, it can withhold giving a rating unless the filmmaker agrees to its suggestions.
Print media	Based on the recommendations of the Press Council of India, the government can suspend its advertising to a publication.
Websites	IT rules 2021 allowed the I&B Ministry to issue orders to ban websites based on their content.

What has the Kerala High Court inferred in the case?

- The writ petition was filed by Madhyamam Broadcasting Limited, the parent organization of Media One channel.
- The High Court endorsed the Government's stand that it was a national security issue

and, therefore, there was no need to observe the *principles of natural justice*.

- The court chose to accept the submission of documents by the government in a *sealed cover*.
- A Division Bench of the Kerala High Court has also dismissed the appeal filed by MediaOne.

What is the stance of the Supreme Court (SC)?

- **Programme and Advertising Code** - The channel did not violate the Programme and Advertising Code prescribed under the Cable Television Networking (Regulation) Act 1995.
- **No evidence** - There was no evidence or material backing of nexus between Madhyamam Broadcasting Limited and Jamaat-e-Islami-Hind (JEIH).
- JEIH is not a banned organization.
- **Article 19(2)** - The SC observed that the channel was not given a chance to defend which violates Article 19(2).
- **Rule of law** - The state is using national security as a tool to deny remedies to the citizens thus violating the rule of law.
- **Proportionality** - The national security considerations assessment not properly put the test of proportionality.
- **Principles of Natural Justice** - The Court observed that there is an inherent value in securing compliance with the principles of natural justice.
- **National security** - Though confidentiality and national security are legitimate aims for limiting procedural guarantee, a blanket immunity from disclosure of all investigative reports cannot be granted.
- **Sealed cover procedure** - Sealed cover proceedings infringes the principle of natural justice and open justice.

Quick facts

Principle of Natural Justice

- Natural justice is an expression of *English common law*, and involves a *procedural requirement of fairness*.
- The principles of natural justice are not embodied rules and are not codified.
- They are judge made rules and are regarded as *counterpart of the American procedural due process*.
- The principles of natural justice was constitutionalized in 1978 ruling in "*Maneka Gandhi vs Union of India*".
- In *Ex- Armymen's Protection Services Pvt. Ltd. vs. Union of India & Ors.* (2014) and *Digi Cable Network (India) Pvt vs Union Of India* (2019), the court held that national security concerns overweigh the duty of fairness.

Principles of Natural Justice

Nemo judex in causa sua -

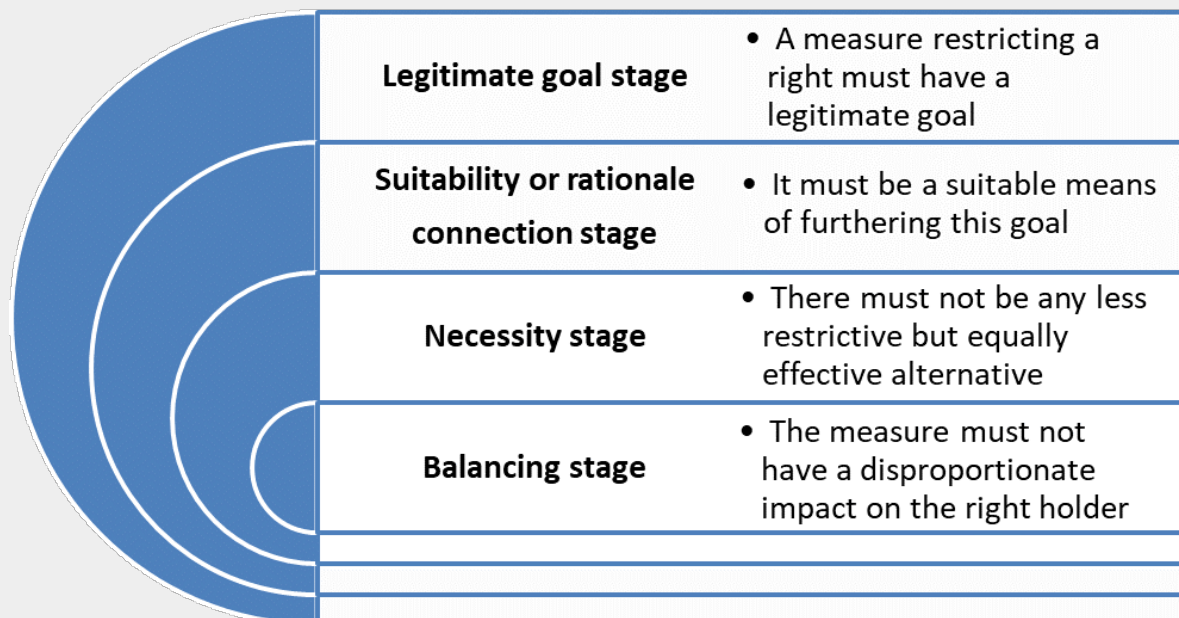
No one should be made a judge in his own cause and the rule against bias.

Audi alteram partem - To

hear the other party or no one should be condemned unheard

Test of Proportionality

- The test of proportionality is employed by courts to decide cases where two or more legitimate rights clash.
- Generally, one right typically prevails at the expense of the other and the court has to balance the satisfaction of some rights and the damage to other rights resulting from a judgement.
- In Modern Dental College vs State of Madhya Pradesh (2016), the top court adopted the proportionality test that was reiterated in K.S. Puttaswamy vs Union of India (2017).
- Later, Justice Sikri laid down a four-fold test to determine proportionality.
 1. Legitimate goal stage
 2. Suitability or rationale connection stage
 3. Necessity stage
 4. Balancing stage



Sealed cover jurisprudence

- It is a practice used by the courts of asking for or accepting information from government agencies in sealed envelopes that can only be accessed by judges.
- There is no specific law that defines the doctrine of sealed cover.

- The Supreme Court derives its power to use it from
 - **Rule 7 of order XIII of the Supreme Court Rules** - The information can be kept confidential if its publication is not considered to be in the interest of the public.
 - **Section 123 of the Indian Evidence Act of 1872** - Official unpublished documents relating to state affairs are protected and cannot be compelled to disclose.
 - **Other instances** - When the publication of information affects an ongoing investigation or breaches the privacy of an individual, it may be sought in secrecy or confidence.

References

1. [The Indian Express | Madhyamam Broadcasting Limited](#)
2. [The Indian Express | Principles Of Natural Justice](#)
3. [Deccan Herald | The proportionality test](#)
4. [Bar and Bench | Proportionality Test](#)

