Dayalbagh always support freedom of information and expression of thoughts as mentioned by the Honourable Supreme Court of India in its ruling on 10<sup>th</sup> Jan 2020.

# Sec 144 can't be used to quell dissent, repetitive orders an abuse of power: SC

'Can't Be A Tool To Prevent Legitimate Expression Of Opinion Or Exercise Of Democratic Rights; Use Only If Danger Is In Nature Of An Emergency' der Section 144 would be an abuse of power" and directed authorities concerned to noti-

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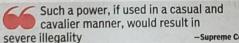
New Delhi: Frowning at the mechanical imposition of prohibitory orders under Section 144 of the Criminal Procedure Code (CrPC) since the British era to the present day, the Supreme Court ruled on Friday that they cannot be used to quell dissent or expression of grievance in a democracy.

In its judgment on restrictions imposed on the movement of people in J&K after the August 5 decision to remove its special status and divide it into two Union territories, the bench said, "Power under Section 144 CrPC cannot be used as a tool to prevent le-



SC says Sec 144 must be backed by sufficient material indicating incitement violence or threat to public safety Where fundamental rights are being curtailed, the same cannot be done through an arbitrary exercise of power Should be used responsibly, is open to judicial review

> Revoke prohibitory orders if they are not in sync with Supreme Court guidelines



gitimate expression of opinion or grievance or exercise of any democratic rights."

The bench emphasised that application of the provision should be limited to situ-

for the state to use Section 144. The thrust appeared to be mo--Supreme Court re on the prevention of misuations of emergency and for se of the provision: to ensure that it was used judiciously the purpose of preventing obrather than turned into a struction and annoyance or injury to any person lawfully blunt weapon. employed. It also said "repeti-

Continued on P 11

fy all prohibitory orders pas-sed in J&K so as to enable ag

grieved persons to challenge

part of the verdict dealing

with the suspension of inter-

net in J&K, Justices N V Ra-

mana, Subhash Reddy and B

R Gavai recognised the need

But as in the case of the

it at an appropriate forum.

### **Govt readying UK deal for** Abdullahs?

Overnment sources on I Friday said there were strong indications that the go-vernment may be working out a deal where National Conference chairman Faroog Abdullah and his son, former J&K CM Omar Abdullah, would be released from detention in exchange for a promise that they would take a break from active politics for some time, reports Saleem Pandit. A top government source said one idea was to find a way to nudge them to move to the UK for a while. The two leaders could run their party's affairs through agents, the sources added. P11

## Indefinite Net suspension impermissible, says SC, orders immediate review in J&K

tive (prohibitive) orders un-

'Freedom Of Speech And Expression And Freedom To Practise Any Profession Or Transact Business Online Is A Constitutionally Guaranteed Fundamental Right'

tions filed by Congress's Ghu-

lam Nabi Azad and Kashmir

Times publisher Anuradha

Bhasin against the suspen-

sion of internet in the wake of

the Centre's decision to scrap

The SC said it did not test

the special status for J&K.

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New Delhi: Thirty-five years after declaring that newspaper publication was part of the right to free speech, the Supreme Court on Friday ruled that expression of views and carrying out trade through internet are also part of the constitutionally guaranteed fundamental right to free speech and indefinite suspension of internet services is impermissible.

#### FULL COVERAGE: P 11

"We declare that freedom of speech and expression and the freedom to practice any profession or carry on any trade, business or occupation over the medium of internet enjoys constitutional protection under Article 19(1)(a) and Article 19(1)(g). The restrictions upon such fundamental rights should be in consonan-

#### CURBS MUST BE PROPORT ONATE

Freedom of press is a valuable & sacred right... A decision which curtails fundamental rights without appropriate justification will be classified disproportionate

The importance of internet cannot be underestimated, as from morning to night we are encapsulated within cyberspace & our most basic activities are enabled by use of internet SC bench of Justices

N V Ramana, R Subhash Reddy & B R Gavai

ce with the mandate under Article 19(2) and (6) of the Constitution, inclusive of the test of proportionality," a bench of Justices N V Ramana, R Subhash Reddy and BR Gavai said

The verdict came on peti-



"whether right to access to internet is a fundamental right" and was hence not expressing any opinion on it as none of the counsel advanced any arguments on this issue.

The order marked an attempt to deal with the perennial tension between the right to freedom and liberty and the requirements of national security and public safety, with the court seeking to locate the pendulum in the middle. It placed the "legitimate" use of internet in the pantheon of fundamental rights, while acknowledging that it was subject to reasonable restrictions, like other fundamental rights.

On balance, the court took the line that while access to internet should be the norm, deviations could be allowed in the interest of order and safety provided they were temporary, proportionate and justified by reasons which were spelt out clearly and reviewed periodically.

"We direct the state and competent authorities to review all (existing) orders suspending internet services forthwith," the bench said.

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