



**KAMARAJ IAS ACADEMY**  
Only IAS Academy by Grandson of "Perunthalaivar Kamarajar"

# Preserving Free Speech in India

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## Why in News?

In **Ranveer Allahbadia v. Union of India (2025)**, the Supreme Court made observations suggesting the need for **new regulatory mechanisms for online content**. This has revived the constitutional debate on whether **courts** should protect free speech or inadvertently assume a regulatory role.

## What is Free Speech?

**Freedom of speech and expression** is the right to express opinions, ideas, beliefs, and information through:

oSpeech, writing, art, print, and **digital platforms**.

It is a **cornerstone of democracy**, enabling:

oDissent and debate

oGovernment accountability

oInformed citizen choice

oMarketplace of ideas

## Constitutional Framework

### Article 19(1)(a)

- Guarantees freedom of speech and expression to **all citizens**.

### Article 19(2): Reasonable Restrictions

- Permits restrictions **only** on specific grounds:

oSovereignty and integrity of India

oSecurity of the State

oFriendly relations with foreign States

oPublic order

oDecency or morality

oDefamation

oContempt of court

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oIncitement to an offence

### Key Constitutional Principle:

The grounds under Article 19(2) are **exhaustive, not illustrative**.

### Role of Courts in Free Speech Adjudication

#### 1. Constitutional Umpire, Not Regulator

- Courts must:

oTest the **constitutionality of restrictions**

oAssess **reasonableness and proportionality**

- Courts should **not design regulatory frameworks** or policy solutions.

#### 2. Guardian Against Prior Restraint

- Judicial role includes preventing:

oPre-censorship

oBlanket or vague controls

- Speech can be restricted **only after demonstrable harm** and strict constitutional scrutiny.

#### 3. Separation of Powers

- **Legislature & Executive** ? Law-making and regulation
- **Judiciary** ? Interpretation, review, and protection of rights
- Judicial overreach risks converting courts into **de facto regulators**.

#### 4. Balancing Rights Within Article 19(2)

- Courts may balance speech with other interests **only within enumerated grounds**.
- Judicial creativity **cannot expand** restriction grounds.

### Key Judicial Precedents

#### 1Shreya Singhal v. Union of India (2015):

oStruck down **Section 66A of IT Act** for vagueness.

oHighlighted **chilling effect** on free speech.

#### 2Sahara India v. SEBI (2012):

oPre-censorship is impermissible.

oPostponement of publication allowed **only as a last resort** under strict tests.

#### 3Kaushal Kishor v. State of UP (2023):

oConstitution Bench held that:

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§Article 19(2) grounds are **exhaustive**

§Courts cannot introduce new speech restrictions.

#### 4**Common Cause v. Union of India (2008):**

oWarned courts against attempting to solve **policy and governance problems** beyond institutional competence.

#### 5**Adarsh Cooperative Housing Society v. Union of India (2018):**

oRefused to mandate content disclaimers.

oReaffirmed that **content regulation lies with statutory authorities**, not courts.