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ONLINE FREE SPEECH

SYLLABUS:

GS 2 > Polity > Fundamental rights

REFERENCE NEWS:

- Recently, the Supreme Court said the right to free speech was increasingly being abused, especially on social media, and called for self-restraint and regulation.

MORE ON NEWS:

- The Supreme Court was hearing a **petition by Kolkata resident Wazahat Khan**, seeking consolidation of multiple FIRs filed against him across states due to his social media posts.
- The Supreme Court has notified **further hearing after four weeks**.
- The Bench hinted that it may go beyond the individual petition to consider **broader guidelines for regulating digital speech**.
- **Judicial Observations on Free Speech:**
 - The **Bench of Justices B.V. Nagarathna and K.V. Viswanathan** expressed serious concern over the **growing misuse of the right to free speech**, particularly on social media.
 - Emphasized that **freedom of speech under Article 19(1)(a)** is **not absolute** and is subject to **reasonable restrictions under Article 19(2)**.
 - Highlighted that free speech **must not instigate divisive tendencies** or promote hate, especially online.
- **Call for Self-Regulation and Civic Responsibility:**
 - The Court emphasized the **need for self-restraint** by citizens in exercising their freedom of speech.
 - Justice Nagarathna observed that **citizens must value their rights** and voluntarily **refrain from hate speech and abuse** online.

- Warned that if self-regulation fails, **the state may be forced to intervene**, which is undesirable in a democracy. Stressed that **fraternity, secularism, and individual dignity** must be protected.
- **Court's Position on Regulation:**
 - The Bench clarified that it was **not advocating for censorship** but suggested that **guidelines may be needed** to regulate **abusive and divisive content** on social media.
 - Justice Viswanathan noted that **greater fraternity among citizens** was key to reducing social hatred and disharmony.
 - Justice Nagarathna invoked **Fundamental Duties (Article 51A)**—specifically, the duty to uphold **unity and integrity of the nation**—as guiding principles for responsible speech.
- **Limitations of State Control:**
 - The Court acknowledged the **limited capacity of the state** to curb free speech without infringing on constitutional rights.
 - Urged **citizen-led responsibility and cultural restraint** as more sustainable solutions to online toxicity.
 - The Supreme Court has **notified further hearing after four weeks**.
 - The Bench hinted that it may **go beyond the individual petition** to consider **broader guidelines** for regulating digital speech.

SIGNIFICANCE OF FREEDOM OF SPEECH ON THE INTERNET:

- **Platform to raise social and political causes:**
 - The internet has become a **global platform for sharing information**, and it allows people to connect with others who share similar views or experiences.
 - This has enabled individuals to **organise and mobilise** around social and political causes and **to hold those in power accountable**.
 - For instance, the **#MeToo movement and India's anti CAA protests** demonstrated how viral hashtags **amplify marginalized voices and build mass movements globally**.
- **E-democracy:**
 - The right to free speech on the internet is indispensable to achieving the **meaningful participation of the general public** in the democratic process.
 - The democratic participation that involves the **use of social media and the internet to interact** with political governance is known as **e-democracy**.

- For instance, during **2024 EU elections**, several governments launched **official portals and chatbots for citizen feedback**—an evolving form of e-democracy.
- **Can express opinions without fear of censorship:**
 - Freedom of speech on the internet allows individuals to express their opinions and ideas **without fear of censorship or retribution**.
- **Essential medium to further the fundamental right:**
 - The Supreme Court in **Shreya Singhal case** has recognised **internet as an essential medium to further our fundamental right** to freedom of speech and expression under **Article 19**.
- **Challenges the dominant narratives in mainstream media:**
 - Unlike traditional media outlets, which are often **controlled by a small number of corporations or individuals**, the internet allows anyone with a computer or Smartphone to publish their thoughts and ideas for the world.
 - This has enabled common people to have a voice and **to challenge the dominant narratives** that have been perpetuated by the mainstream media.

ARGUMENTS IN FAVOUR OF RESTRICTIONS ON FREE SPEECH ON THE INTERNET:

- **Ensure law and order:**
 - **Misinformation and rumors** can be easily spread through the internet, **both intentionally and unintentionally**, which may lead to law and order issues.
 - So government regulation would avert disputes and violence as a result of misinformation on the internet. For example, combating **fake news and related violence etc.**
 - Recently, the Supreme Court urged citizens to **exercise self-restraint online** to prevent **hate-driven litigation and curbing divisive content**, warning that **unchecked spread could overload law enforcement and courts**.
- **National Interest:**
 - The internet **cannot be independent of national sovereignty**.
 - Therefore, the necessary regulation of free speech on the internet is a reasonable choice of sovereign countries based on national interests.
- **Online hate speech:**
 - Online hate speech has been on the rise in India. **Digital hatred and majoritarian radicalization** were evident in various instances.

- For instance, in two concurrent cases (**Khan's X posts and cartoonist Malviya**), the Supreme Court granted interim relief but warned strongly against repeated offensive content targeting political and religious figures

- **Wazahat Khan Case:** Khan, a Kolkata resident, faced multiple FIRs for his posts on X (formerly Twitter) that allegedly hurt religious sentiments. The Supreme Court granted him **interim protection from arrest**, but expressed concern over **abuse of free speech** and emphasized the need for **self-restraint** on social media to preserve public harmony.
- **Hemant Malviya Case:** Malviya, an Indore-based cartoonist, was booked for sharing a **controversial cartoon** targeting Prime Minister Modi, RSS, and Hindu deities. The Supreme Court granted him **interim relief after he deleted the post and apologized**, but **strongly cautioned against repeated offensive content**, calling it an irresponsible use of free expression.

- **Online defamation:**
 - Online defamation refers to defamatory information being spread over the internet to harm a person's reputation and image. **The wide accessibility, mass reach, and increasing popularity of the internet** make this offense more harmful than ever.
- **Freedom of expression is not absolute:**
 - Freedom of speech and expression **does not confer on citizens the right to speak or publish without responsibility** on the internet.
 - Hence, as per **Article 19(2)** of the Constitution of India, the legislature may enact laws to impose restrictions on the right to speech and expression on the internet as well.
 - For instance, while hearing a petition by Wazahat Khan, the SC emphasized that **freedom of speech under Article 19(1)(a) is not absolute** and is subject to **reasonable restrictions under Article 19(2)**.

PROVISIONS ASSOCIATED WITH THE REGULATION OF ONLINE FREEDOM OF SPEECH:

- **Information Technology Act, 2000:**
 - **Section 69A** of the Information Technology Act, 2000, **empowers the state to issue blocking orders** in cases of emergency on the grounds such as "sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States, public order or for preventing incitement to the commission of any cognizable offence relating to the above".

- The **Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009** (Blocking Rules) **lays down the procedure** for any blocking order issued under Section 69A.
 - This provision's **constitutionality was challenged in Shreya Singhal** case where the Supreme Court of India **upheld the validity of Section 69A and the Blocking Rules** after observing that **sufficient procedural safeguards** were embedded, such as provision of recording a reasoned order, and providing notice to the intermediary and the originator whose content was sought to be blocked.

WAY FORWARD:

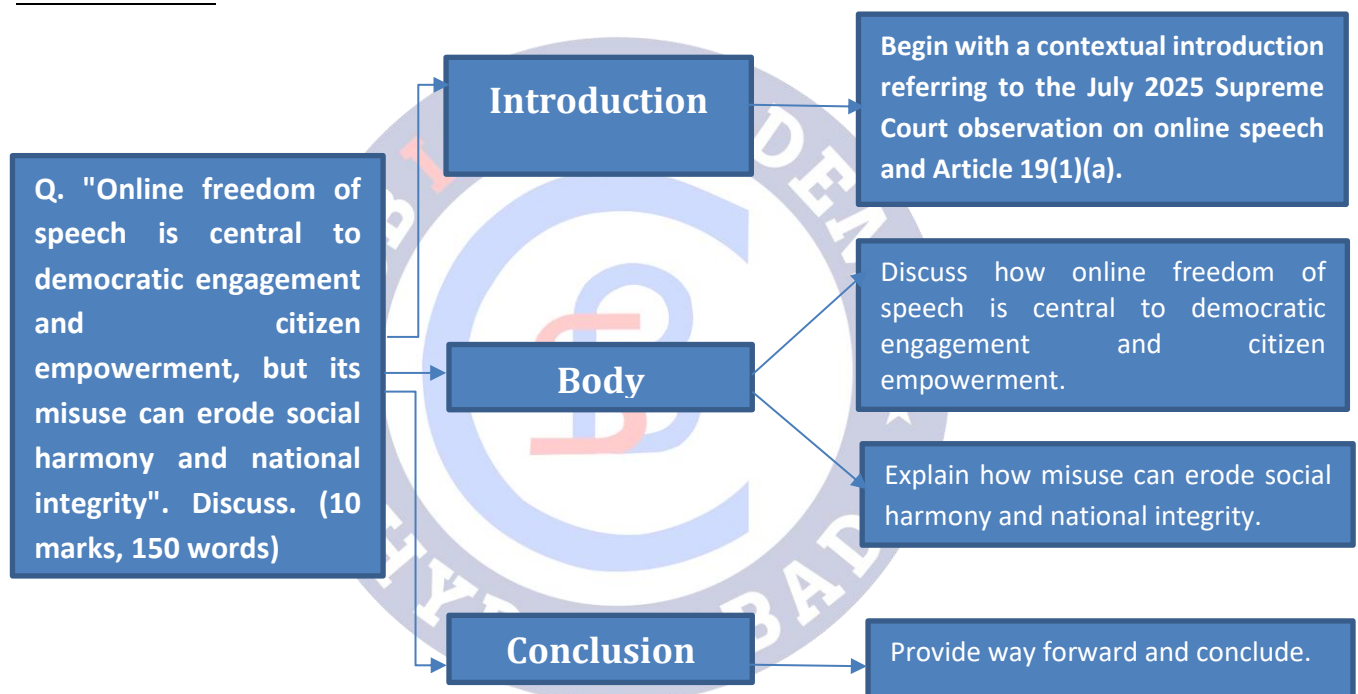
- **Clear Judicial Guidelines for Digital Speech**
 - The Supreme Court, while considering broader guidelines beyond individual petitions, should formulate **balanced norms** that uphold free speech while preventing online abuse, hate speech, and misinformation.
- **Strengthening Self-Regulation by Platforms**
 - Social media companies should be mandated to adopt **transparent content moderation policies**, publish periodic compliance reports, and establish **independent grievance redressal mechanisms**.
- **Public Digital Literacy Campaigns**
 - Citizens must be educated on **responsible online behaviour**, the value of constitutional freedoms, and the consequences of misusing digital platforms.
- **Proportional and Transparent State Regulation**
 - Government actions under Section 69A or the IT Rules must be **backed by reasoned orders**, subject to **judicial review**, and applied with **proportionality** to avoid overreach.
- **Strengthening Fundamental Duties Awareness**
 - As highlighted by the Supreme Court (Art. 51A), promoting **fraternity, integrity, and dignity** through civic awareness can reduce the need for excessive state intervention.
- **Independent Oversight Bodies**
 - Instead of government-controlled Grievance Appellate Committees, consider **autonomous digital rights commissions** with judicial oversight to ensure accountability without censorship.

CONCLUSION:

- Online freedom of speech is central to democratic engagement and citizen empowerment, but its misuse can erode social harmony and national integrity. A **nuanced regulatory framework**, grounded in constitutional values and public accountability, is essential to ensure that the internet remains a space for **constructive dialogue**, not digital discord.

PRACTICE QUESTION:

Q. "Online freedom of speech is central to democratic engagement and citizen empowerment, but its misuse can erode social harmony and national integrity". Discuss. (10 marks, 150 words)

APPROACH:**MODEL ANSWER:**

The internet has emerged as a transformative space for exercising the **fundamental right to freedom of speech and expression under Article 19(1)(a)**. However, as observed by the **Supreme Court in July 2025**, the growing misuse of online speech—especially on social media—has triggered calls for self-restraint and potential regulatory frameworks. While online speech empowers democracy, its unchecked abuse poses risks to social harmony and national unity.

How Online Freedom of Speech is Central to Democratic Engagement and Citizen Empowerment:

- 1. Inclusive Public Participation**

- Digital platforms bridge social, regional, and economic divides, enabling citizens to voice opinions and influence governance directly.
- 2. Mass Mobilisation for Social Justice**
 - Movements like **#MeToo**, **anti-CAA protests**, and climate action gained traction through viral hashtags and online organising.
- 3. E-Democracy and Interactive Governance**
 - Platforms like **MyGov** in India and **EU chatbots in 2024 elections** allow citizens to contribute policy suggestions, feedback, and grievances.
- 4. Checks on Media and State Narratives**
 - Citizen journalists and fact-checkers like **Alt News** help correct misinformation and challenge elite-controlled narratives.
- 5. Judicial Endorsement**
 - The **Shreya Singhal v. Union of India (2015)** verdict recognised the internet as an essential vehicle to exercise free expression.

How Misuse Can Erode Social Harmony and National Integrity:

- 1. Communal Polarisation and Hate Speech**
 - SC cases like **Wazahat Khan** and **Hemant Malviya** highlighted how online posts can inflame religious or political tensions.
- 2. Spread of Fake News and Misinformation**
 - Viral content without fact-checking has incited **mob lynchings**, hate crimes, and panic.
- 3. Online Radicalisation**
 - Social media algorithms foster **echo chambers**, amplifying extremism and undermining secular, plural values.
- 4. Defamation and Harassment**
 - Anonymous and unregulated platforms fuel **targeted abuse**, especially against women, minorities, and public figures.
- 5. Threat to Sovereignty and National Security**
 - Coordinated **disinformation campaigns**, both domestic and foreign, can disrupt internal stability and international relations.

Way Forward:

- **Judicial Guidelines for Digital Speech:** The SC should evolve constitutional norms balancing **free speech with social responsibility**.
- **Proportional and Transparent Legal Regulation:** **Section 69A of the IT Act** and **IT Rules 2021** must be applied with safeguards like reasoned orders and review.

- **Public Digital Literacy and Awareness:** Promote **civic education on digital rights and responsibilities**, especially among youth and rural users.
- **Platform Accountability Mechanisms:** Enforce **transparent content moderation**, independent grievance redressal, and algorithmic audits.
- **Reinforcement of Fundamental Duties (Article 51A):** Promote constitutional values like **fraternity, dignity, and national unity** to guide responsible speech.

In the digital age, online freedom of speech is vital for **democratic vitality and social justice**, but when abused, it becomes a **threat to peace, dignity, and national unity**. A **balanced approach**, rooted in constitutional morality, judicial oversight, and civic awareness, is essential to harness the internet as a tool for democracy—not division.

