

Internet access as a fundamental right for children: What the Supreme Court ruling means

The Supreme Court has recognised internet access as a fundamental right for children. It has rejected blanket bans while allowing proportionate safeguards against harmful content.

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The Supreme Court has held that internet access is a fundamental right for children, ruling that online safety measures must target harmful content rather than impose blanket restrictions on minors.
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The Supreme Court on October 15 held that “the right to access and use the internet is a fundamental right of every individual.” A bench of Justices J B Pardiwala and K V Chandran added that children, “irrespective of their age, enjoy the same rights”, and that “the safety of our children and their freedom are not at odds with each other. Our children are entitled to both.

What does the right to access the internet mean when several states, including Karnataka and Andhra Pradesh, plan screen-time curbs for children, some countries restrict minors’ use of social media, and governments suspend internet services during protests?

How did the question reach the Supreme Court?

In 2024, a two-judge bench of the Supreme Court comprising Justices D Y Chandrachud and J B Pardiwala held that viewing, possessing, and not reporting the possession of any child pornographic material constitute offences under the stringent Protection of Children from Sexual Offences (POCSO) Act and the Information Technology (IT) Act, even if this is not disseminated further.

It overturned a Madras High Court order that had quashed the chargesheet against an accused, holding that downloading and privately viewing such material, without publishing or transmitting it, was not an offence. Just Rights for Children Alliance, a coalition of NGOs, challenged the Madras HC order before the court and sought directions to intermediaries on reporting such material.

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The Supreme Court in later orders noted platforms’ lapses in complying with those directions, and that news reports showed paid promotion of child sexual exploitation and

abuse material (CSEAM) through redirect links.

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While ruling on compliance with its earlier orders, the court considered a trend “across the globe” of limiting children’s access to social media “in the name of their safety”. The bench said it “decided consciously not to endorse the same.”

What did the court hold on internet access, and why?

The court cited jurisprudence recognising the right to access the internet as a fundamental right. In *Anuradha Bhasin v Union of India* (2020), a three-judge bench held that freedom of speech and expression, and the freedom to carry on trade or business, through the internet are protected under Articles 19(1)(a) and 19(1)(g).

Another ruling, in *Pragya Prasun v Union of India* (2025), a two-judge bench held that excluding persons with disabilities from digital KYC violated Article 21 and that “the right to digital access is an intrinsic component of the right to life”.

It also cited *Cricket Association of Bengal* (1995): Article 19(1)(a) includes “the right to know and to receive and impart information and ideas”

Last week’s ruling said that “for many children, particularly in remote areas, it is often the only source of learning and information.”

The Court’s reading of the right to access the internet as a fundamental right underpins its rejection of blanket bans or disproportionate restrictions on children’s internet access.

“All that we are trying to say is that any blanket restriction on the access of internet by children is nothing more than unproven measures of proven disproportionality. No jurisdiction has, so far, been able to demonstrate that children are any safer on account of such measures,” the Court said.

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This is because any restriction on a fundamental right has to pass the three-pronged test laid down by the Court. First, the restriction must be through duly enacted legislation; second, the law must demonstrate a legitimate state interest that has a nexus with the objective sought to be achieved by Parliament; and third, and most crucially, the encroachment on fundamental rights must be proportionate to that objective.

What restrictions did the court decline? Does that rule out all curbs?

The bench accepted that “the internet, as it exists today, is far from safe for our children”. But it said, “any measure for the safety of children must be directed at the harmful material and those responsible for the same, and not at the children themselves”. Keeping children off the internet because of such failures “would be to mistake the victim for the problem.”

The ruling also said that age-based limits require identifying every user’s age and “continuous collection and monitoring of sensitive data”, creating “an overall disproportionate risk of misuse and surveillance.”

The court also questioned the effectiveness of such measures. “Children do not cease to use the internet merely because the law prohibits them from doing so,” and that they “move to other platforms and websites that are unregulated and even more unsafe,” the court said. It called blanket curbs “nothing more than unproven measures of proven disproportionality” and that no jurisdiction has, so far, been able to demonstrate that children are any safer.

The court suggested greater emphasis on parental consent, guidance and oversight, and a ‘child mode’ with accounts private by default, restrictions on contacts and messages from unknown adults, and moderation of advertising and content. It left the modalities “to the wisdom of the Union of India”. The Union can also restrict access to content “inherently harmful to them, such as adult content websites.” Among the court’s directions to the Union is the creation of a National Hash & URL List Database for CSEAM, with entries requiring confirmation by “at least three trained human analysts”. For other CSEAM, removals must be reported “within two hours from such removal”, and complaints acknowledged “within twenty-four hours from receipt”.

The court also directed that the union must consider exemplary monetary fines, and that revenue from CSEAM offered through paywalls should be forfeited and disgorged.

What is the key takeaway from the ruling?

The Supreme Court has held that the right to access and use the internet is a fundamental right that extends to children. It said safety measures should target harmful material and those responsible for it, not children's access. It did not rule out safeguards: it left the Union to design a parental-consent and "child mode" framework, and said the Union can restrict categories of content that are inherently harmful. The Union must frame guidelines, amend the IT Rules where needed and file an affidavit before the next hearing on December 10, 2026. States enacting laws on screen time curbs for minors will have to ensure these restrictions remain within constitutionally permissible limits.

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On one hand, there is value in recognising a right as a fundamental right. Take the right to privacy, for instance. However, there are questions about the practical effect of the Supreme Court's steady widening of fundamental rights. The bouquet of fundamental rights has often outpaced the state's ability or willingness to deliver what those rights promise. Court rulings are often seen as doctrinal attempts that are overlooked in practice, especially when governments rarely face consequences for not providing the infrastructure those rights presuppose.

For example, the Anuradha Bhasin ruling on internet curbs is routinely invoked in breach of its guidelines. If future shutdowns and restrictions on connectivity do not satisfy tests of legality and necessity, and the state is not held to account, then the rights seem hollow.

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