

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRA ORDINARY CIVIL JURISDICTION

Writ Petition No. of 2021

IN THE MATTER OF:

MR. ASHUTOSH KAUSHIK

...PETITIONER

VERSUS

UNION OF INDIA AND ORS.

...RESPONDENTS

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ABTosh

Petitioner

Through



Akshat Bajpai, Ishanee Sharma, Shreya Gupta (Advocates)

C-61, LGF Jangpura Extension

New Delhi-110014

Mob: 7985177435

Email: bajpaiakshat@gmail.com

Dated-22.03.2021

Place: -New Delhi

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NOTICE OF MOTION

NOTICE BE TAKEN that the accompanying petition under Articles 226 of the Constitution of India will be listed before Court on _____ day of March, 2021 at 10.30.am or soon thereafter as may be convenient to the Hon'ble High Court.



Petitioner

Through



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URGENT APPLICATION

To,

The Registrar

High Court of Delhi, New Delhi

Sir,

Kindly treat the present petition as urgent in accordance with the Rules and Orders of the High Court. The reason why urgency has arisen because



Petitioner

Through



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MEMO OF THE PARTIES

ASHUTOSH KAUSHIK,
48A GROUND FLOOR CENTURY APARTMENT,
SECTOR 100 NOIDA, UP-201304
Mob: +91-9027096999
E-mail - ashutosh.kaushik07@gmail.com

.... Petitioner

Versus

1. UNION OF INDIA,
REPRESENTED BY SECRETARY,
MINISTRY OF INFORMATION AND BROADCASTING,
ROOM NO. 552 A-WING, SHASTRI BHAWAN,
NEW DELHI - 110 001
Contact no. - +91 11 23383775
Respondent No.1
2. PRESS COUNCIL OF INDIA, THROUGH ITS CHAIRMAN,
MA ANANDMAYEE MARG, POCKET A,
OKHLA PHASE I, OKHLA INDUSTRIAL AREA,
NEW DELHI, DELHI 110044
Contact no. - 011-2436 6745

Respondent No.2

3. PRESS INFORMATION BUREAU, THROUGH ITS PRINCIPAL DG,
RAISINA ROAD, NEAR HOTEL LE MERIDIAN,
WINDSOR PLACE, NEW DELHI, DELHI 110001
Contact no. - 011 2348 8367

Respondent No.3

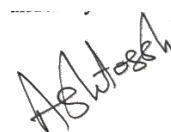
4. ELECTRONIC MEDIA MONITORING CENTRE,
THROUGH ITS DIRECTOR,
3, LODHI RD, CGO COMPLEX, NEW DELHI, DELHI 110003
Contact no. - 011 2426 9432

Respondent No.4

5. GOOGLE LLC

REGISTERED OFFICIAL ADDRESS AT
1600, AMPHITHEATRE PARKWAY, MOUNTAIN VIEW, CA 94043,
UNITED STATES OF AMERICA.
ALONG WITH ITS SUBSIDIARY
GOOGLE INDIA PVT. LTD,
THROUGH ITS COUNTRY MANAGER & VICE PRESIDENT
AT BLOCK 1, DIVYASREE OMEGA,
SURVEY NO. 13, KONDAPUR VILLAGE,
HYDERABAD, ANDHRA PRADESH.
TELEPHONE NO. +91-40-66193000
Email - support-in@google.com

Respondent No.5



Petitioner

Through



Akshat Bajpai, Ishanee Sharma, Shreya Gupta (Advocates)

C-61, LGF Jangpura Extension

New Delhi-110014

Mob: 7985177435

Dated-22.03.2021

Email: bajpaiakshat@gmail.com

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SYNOPSIS

The Petitioner is a renowned public figure, a prominent actor and a reality show celebrity. The Petitioner had won MTV Hero Honda Roadies 5.0 in 2007 and 2nd season of Big Boss in 2008. Subsequently the Petitioner participated as a video jockey in MTV Roadies 8 and the 6th season of Big Boss. The Petitioner had acted in numerous bollywood movies like "*Zila Gaziabad*", "*Kismat Love Paisa Dilli*" etc. Petitioner's valuable contribution in the television and big screen industry has earned him accolades, love and appreciation of people across India.

However, despite attaining outstanding success in the silver screen industry, under deep agony the Petitioner had to suffer utmost psychological pain for his diminutive acts, which were erroneously committed a decade ago as the recorded videos, photos, articles of the same are available on various search engines/ online platforms.

Therefore the Petitioner seeks issuance of a writ or direction or order thereby giving necessary directions to the Respondents to take effective and time bound actions in removing all the posts, videos, articles written under the name of Petitioner, which are irrelevant in the present times and are causing grave injury

to the Petitioner's dignity and reputation and thereby avail Petitioner the 'Right to be Forgotten' to safeguard the Petitioner's life, liberty, dignity, reputation from further jeopardizing.

LIST OF DATES

| <u>Date</u> | <u>Particulars</u> |
|--------------------|---|
| 2007 | Petitioner won MTV Hero Honda Roadies 5.0 |
| 2008 | Petitioner won 2 nd season of Big Boss |
| 13.06.2009 | An article published in the online edition DNA INDIA was titled as “Ashutosh Kaushik arrested for drunk driving” . |
| 13.06.2009 | An article published in the online edition Indian Express was titled as “Bigg Boss 2 winner Ashutosh charged with drunken driving” . |
| 25.06.2009 | An article published in the online edition Hindustan times was titled as “Big boss busts Ashu!” . In the article a very small incident pertaining to violation of traffic rules was exponentially overhyped in the following words “Bigg Boss winner Ashutosh Kaushik got hauled for drunk driving recently, as a result of which he was jailed for a day, had to pay a fine of Rs 3,100, his driving license canceled...” |
| 14.03.2013 | An article published in the online edition of ZEE News was titled as “‘Bigg Boss 2’ winner Ashutosh Kaushik's drunken drama” . |
| 15.03.2013 | An article published in ‘kemmaanu.com’ was titled “‘Drunk’ Bigg Boss winner Ashutosh Kaushik creates ruckus at Mumbai café” . |

| | |
|--------------|--|
| 05.12.2013 | A video titled as “ Bigg Boss 2 WINNER Ashutosh Kaushik CAUGHT NAKED & DRUNK DRIVING -- EXCLUSIVE VIDEO ” was uploaded on a youtube channel named as ‘Telebuzz’. |
| 2010-2013 | Multiple photos, articles, videos were uploaded on internet, showcasing a few diminutive acts, which were erroneously committed by the Petitioner. |
| 24.08.2020 | Petitioner approached Respondent no.5 by way of a written representation but to no avail a mere auto generated reply was sent to the Petitioner. |
| 11.02.2021 | Petitioner approached Respondent no.1 by way of a written representation pertaining to the concerns raised before Respondent no.1, however the Respondent no.1 became ‘ <i>in communicado</i> ’. |
| ____.03.2021 | Hence, this present writ petition. |

Ashutosh

Petitioner

Through

Akshat *Ishanee*

Akshat Bajpai, Ishanee Sharma, Shreya Gupta (Advocates)

C-61, LGF Jangpura Extention

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Writ Petition Under Articles 226 of the Constitution of India seeking the right to be forgotten and issuance of an appropriate writ or order or direction thereby directing the Respondent no.1 to take urgent steps to safeguard the reputation and dignity of the Petitioner by removing Petitioner's videos, photos, other related article from various online platforms which are being facilitated by Respondent no.5 as the same is engendering a detrimental effect on his life and personal liberty.

To,

The Hon'ble Chief Justice of Delhi High Court and His Companion Judges;

Humble Petition on Behalf of the Petitioner

MOST RESPECTFULLY SHOWETH: -

"Technology is a useful servant but a dangerous master."

— Christian Lous Lange

1. The Petitioner has preferred this instant writ petition under Article 226 of the Indian Constitution seeking an intervention of this Hon'ble Court with

respect to the application of the "Right to be forgotten" and to direct the Respondents/Authorities to remove Petitioner's videos, photos, articles from various online platforms, which are facilitated by Respondent no.5, as the same is engendering a detrimental effect on his life and personal liberty.

2. The Petitioner is a renowned public figure, a prominent actor and a reality show celebrity. The Petitioner had won MTV Hero Honda Roadies 5.0 in 2007 and the 2nd season of Big Boss in 2008. Subsequently the Petitioner participated as a video jockey in MTV Roadies 8 and 6th season of Big Boss. The Petitioner had also acted in numerous bollywood movies like "*Zila Gaziabad*", "*Kismat Love Paisa Dilli*" etc. Petitioner's valuable contribution in the television and big screen industry has earned him accolades, love and appreciation of people across India.
3. That the Respondent no.1 is a ministerial level agency of the Government of India responsible for the formulation and overall administration of rules, regulations and laws in the areas of information, broadcasting, the press, social media and the Cinema of India. That the Respondent no.1 is squarely covered within the meaning of "State" as defined under Article 12 of the Constitution of India and its actions/omissions are amenable to the powers of this Hon'ble Court under article 226 of Constitution of India.
4. That the Respondent no.2 namely Press Council of India is a statutory quasi-judicial autonomous authority mandated by the Parliament for the twin objective of preserving the freedom of the press and maintaining and improving the standards of newspapers and the news agencies in India exercising quasi-judicial functions over the authorities as well as the press person. That the Respondent no.2 generates its funds for performances of its functions under the Act from the fee collected by it from newspapers, other receipts and grants in-aid by from the Respondent no.1. That the Respondent no.2 is squarely covered within the meaning of "State" as

defined under Article 12 of the Constitution of India and its actions/omissions are amenable to the powers of this Hon'ble Court under article 226 of Constitution of India.

5. That the Respondent no.3 namely Press Information Bureau (PIB) is the nodal agency of the Government of India which functions as an interface between the Respondent no.1 and the media and also provides feedback to the Government on the reaction of people as reflected in the media. That the Respondent no.3 is squarely covered within the meaning of "State" as defined under Article 12 of the Constitution of India and its actions/omissions are amenable to the powers of this Hon'ble Court under article 226 of Constitution of India.
6. That Respondent no.4 namely Electronic Media Monitoring Centre (EMMC) is entrusted with the task of monitoring the content being aired by permitted satellite TV channels for any violation of Programme and Advertising Codes under the Cable Television Network (Regulation) Act, 1995. EMMC is a premier set-up with advanced technologies to monitor, record and analyze broadcast content. Respondent no.4 has the technical facility to acquire Store and retrieve the content of 900 channels, beaming over the Indian Territory, so that any violations of codes framed under the Cable Television Network (Regulation) Act, 1995 could be checked which must be adhered to by all broadcasting entities. The revised up-linking guidelines and down-linking guidelines for channels beamed in India also require monitoring of content for possible violations and remedial measures thereto. Respondent no.3 prepares reports on apparent violations along with the recorded clips to the Scrutiny Committee, which examines the purported violations and forwards its findings to the Inter-Ministerial Committee and other bodies for further action. The Respondent no.4 also identifies topical matters of immense public importance and reports them to the Ministry for evaluation and for taking any action, if needed.

Additionally, Respondent no.4 also prepares and submits special reports to the Ministry on media coverage of matters desired by the Respondent no.1. That the Respondent no.4 is squarely covered within the meaning of "State" as defined under Article 12 of the Constitution of India and its actions/omissions are amenable to the powers of this Hon'ble Court under article 226 of Constitution of India.

7. That the Respondent no. 5 namely Google India Private Limited is a private company registered under companies act and is a subsidiary of Google LLC having its registered offices at 1600 Amphitheatre Parkway in Mountain View, California, United States. That Respondent no.5 is primarily responsible for providing an online platform for disseminating irrelevant information against the Petitioner which is of no use in the present times. Further the functioning/actions/omissions of Respondent no.5 is subject to and regulated as per the rules & regulations formulated by Respondent nos. 1 to 4.
8. That before adverting to the factual matrix of the case, a brief prefatory profile of the Petitioner is submitted for kind perusal of this Hon'ble Court:

BRIEF ANTECEDENTS OF THE PETITIONER

- A. The Petitioner was born on 2 October 1979 in Saharanpur, Uttar Pradesh. He attended a local school, where he has completed his schooling. However, owing to lack of livelihood resources and financial constraints the Petitioner could not add much to his education. Subsequently in his early life, the Petitioner started to work on odd jobs to support the family, since he hails from a middle-class family background and there was no way for him to live without working.
- B. The Petitioner is well known for his appearances in various reality shows and his notable accomplishments are enunciated below briefly:-

| S. no | Year | Name of Television show/ Movie | Achievement/ Role |
|-------|------|---|-------------------|
| 1 | 2007 | MTV Hero Honda Roadies season 5 | Winner |
| 2 | 2008 | Big Boss season 2 on Colours TV | Winner |
| 3 | 2009 | Comedy Circus Chinchpokli to China | Comedian |
| 4 | 2010 | Kitchen Champion season 2 on Colours TV | Participant |
| 5 | 2010 | Dil Jeetegi Desi Girl on NDTV Imagine | Guest appearance |
| 6 | 2010 | Rahul Dulhaniya Le Jayenge on Imagine TV | Guest appearance |
| 7 | 2011 | MTV Roadies season 8 | Guest appearance |
| 8 | 2012 | Kismat Love Paisa Dilli | Actor |
| 9 | 2012 | Big Boss season 6 on Colours TV | Guest appearance |
| 10 | 2013 | Shortcut Romeo | Actor |
| 11 | 2013 | Savdhaan India- Mumbai fights back on Life Ok | Actor |
| 12 | 2013 | Cricadda | Guest appearance |
| 13 | 2013 | Bhadaas | Actor |
| 14 | 2013 | Zila Gaziabad | Actor |
| 15 | 2016 | Pitamah | Actor |
| 16 | 2016 | Love Ke Fundey | Actor |
| 17 | 2016 | Laal Rang | Actor |
| 18 | 2016 | Chal Jaa Bapu | Actor |

9. That despite attaining outstanding success in the silver screen industry, under deep agony the Petitioner had to suffer utmost psychological pain for his diminutive acts, which were erroneously committed a decade ago as recorded videos, photos, articles of the same are available on various search engines/ online platforms. A true copy all such articles, photos etc, which were posted a decade ago on various online platforms is hereby annexed and marked as **Annexure P-1(colly)**.

SUCCINCT ELLUCIDATION OF THE RIGHT TO BE FORGOTTEN

10. That the Right to be Forgotten reflects the claim of an individual to have certain data deleted so that third persons can no longer trace them. The right enables a person to silence the past events of his life that are no longer occurring. Thus, the Right to be Forgotten entitles individuals to have information, videos or photographs about themselves deleted from certain internet records so that search engines cannot find them.
11. That the origin of this right can be traced back to the French jurisprudence on the '*Right to oblivion*' or *Droit à l'oubli*. The rationale behind it was to allow offenders who had served their sentence to object to the publication of information regarding the same.
12. That in the present century the number of Internet users has mushroomed to a staggering magnitude. Thus, the Internet without a doubt has been the biggest phenomena of this century. Our current "network society" is a product of the digital revolution and some major socio-cultural changes.
13. That the internet has a continual memory that stores everything which was ever uploaded on it and hence it would be apt to state that the internet has an unforgiving memory. Internet does not allow a person to overcome his past follies and turn a new leaf.
14. That advanced technology and new search algorithms generate information in seconds that was ever uploaded on various platforms and such

information can be shared by Youtube, Facebook, etc. by just clicking on the share button. Wherefore in order to protect Petitioner's privacy, a principled remedy is sought from this Hon'ble court whereby every irrelevant information which is causing mental harassment and trauma to the Petitioner, should be removed from all the public domains and social media platforms.

15. That the Petitioner's past mistakes in his personal life becomes and remains in public knowledge for generations to come and therefore in the instant case, this aspect acts as an ingredient for litigation before this Hon'ble court. Consequently, the values enshrined under Article 21 of the Indian constitution and the emergent jurisprudential concept of the Right to be Forgotten becomes extremely relevant in the present case.

EVOLUTION OF THE RIGHT TO BE FORGOTTEN

- A. That the etymological background of the right can be traced back to the 'right to oblivion' (*droit à l'oubli*) in the French jurisprudence. The right was utilized by former offenders, who had served their sentence, to object to publication of materials regarding their offense and consequent conviction as it was a right seen necessary to provide for easier social integration of erstwhile offenders.
- B. That globally since centuries "Right to be Forgotten" has been accepted as part of criminal law in a number of respects. Legislation in a number of countries have recognized that after a given period of time, convictions for certain types of offence are to be regarded as spent, i.e. that convicted individuals are to be treated for all purposes in law as persons who have not committed the offence. These laws seek to ensure the rehabilitation of offenders by enabling them to live their life without undue prejudice based on past mistakes for which they have now repaid their debt to the society. In practice, this means that the criminal record of these individuals is

expunged or considered as “clean.” In some countries, it also means that individuals have a right to request that news media coverage related to their conviction be purged from news archives once the person in question has served the sentence.

- C. In past the law in civil matters had also recognized that after a certain period of time, the publication of information that infringes a person’s privacy or damages their reputation may no longer be actionable. In common law countries, this is referred to as a limitation period (or sometimes a ‘statute of limitations’); in common law countries, it is called ‘prescription.’ It is also apt to state that in context of defamation and privacy claims, the concept of limitation periods reflects the idea that certain wrongs relating to the publication of information no longer require reparation because any harm caused by the publication has long since been resolved and it is deemed best that society move on.
- D. That in 1995 European Union Data Protection Directive acknowledged and approved the right to be forgotten that provides for a right to all people from member states to rectify, erase and block all data that does not comply with the provisions of the directive.
- E. That in recent times the concept of Right to be forgotten has evoked a significant response from various Jurisdictions across the globe. Most prominently, the developments have been rapid in the EU and Argentina. Further, along with these two jurisdictions, various common law countries like United States, Britain, Canada, Australia and India have also largely accepted and availed the "Right to be Forgotten" to its subjects.
- F. That before adverting ahead, position taken by various jurisdiction across the globe is submitted for the kind perusal of this Hon'ble court: -

GLOBAL RECOGNITION OF THE RIGHT TO BE FORGOTTEN IN RECENT PASTS

This Section analyses the evolution of the concept of the Right to be Forgotten in other jurisdictions from a comparative law perspective. The Petitioner is conscious of the limits of a comparative approach. Further, it is also an established rule that each of the below mentioned common law country is governed by its own constitutional and legal structure and these precedents are not binding but have a persuasive value on the decisions of this Hon'ble court.

I. European Union

- The European Union has witnessed several maneuvers to establish the Right to be forgotten in a consolidated form. The Data Protection Directive was a European Union directive adopted way back in 1995 to regulate the processing of personal data within the European Union.
- It is an important component of EU privacy and human rights law. Subsequently The General Data Protection Regulation (GDPR) was adopted in April 2016, which superseded the 1995 Data Protection Directive. Article 17 provides that the data subject has the right to request erasure of personal data related to them on any one of a number of grounds, including noncompliance with Article 6(1) (lawfulness) that includes a case (f) if the legitimate interests of the controller are overridden by the interests or fundamental rights and freedoms of the data subject, which require protection of personal data. Thus GDPR's Article 17 has outlined the circumstances under which EU citizens can exercise their right to be forgotten or right to erasure.

- The Article gives the EU citizens the right to get personal data erased under six conditions, including withdrawal of consent to use data, or if data is no longer relevant for the purpose, it was collected. However, the request may not be entertained in some situations such as if the request contradicts the right of freedom of expression and information, or when it goes against public interest in the area of public health, scientific or historical research or statistical purposes. Thus, the GDPR of 2016 includes a specific protection in the right to be forgotten in Article 17. It can be said that it has at least provided for a limited right of erasure in its operating Jurisdiction. In *Google Spain v AEPD and Mario Costeja González* ECLI: EU: C: 2014:317 (2014), the European Court of Justice asked Google to delete “inadequate, irrelevant or no longer relevant” data from its search results, when a member of the public requests so. The ruling is now popularly known as the “right to be forgotten” and has been critical in reinforcing the data protection laws and regulations in the EU, including EU’s General Data Protection Regulation (GDPR). The case involved one Mario Costeja González, a Spanish man who was unhappy that searching his name on Google threw up a newspaper article from 1998. When he approached the Newspaper in 2009, to remove the article the latter refused to do so, and Gonzalez then approached Google to not display up the article when his name is searched. The court ruled in favor of the plaintiff.
- In European Union, in order to exercise the right to be forgotten and request removal from a search engine, one must complete a form through the search engine’s website. Google’s removal request process requires the applicant to identify their country of residence, personal information, a list of the URLs to be removed along with a short description of each one, and attachment of legal identification.

The given form allows the subjects to submit the names which they would like to get removed from search results. Further if a Search Engine refuses a request to delink material, the EU citizens can appeal to their local data protection agency. As of May 2015, the British Data Protection Agency had treated 184 such complaints, and overturned Google's decision in about a quarter of those. Therefore, if Google fails to follow a decision rendered by Data Protection Agency, then it can face a legal action before an appropriate authority. The precedent laid down herein above clearly highlights the fact that European Union is of the considered opinion that the delinking requests by the EU citizens should be implemented by Google on all the International Domains.

II. ARGENTINA

- That excluding EU, another bastion of activity of the present issue has been Argentina that has witnessed several lawsuits by prominent individuals against search Engines such as Google and Yahoo! demanding the removal of certain search results, especially the links to photographs uploaded online. In **Da Cunha v. Yahoo de Argentina SRL and Another File number 99.613/06 (2014) (Argentina)**, the issue of Right to be forgotten was discussed. The claimant, Virginia da Cunha, is an Argentine model and musician. She claimed damages and sought injunctions against Yahoo Argentina and Google for search results linking her name to several erotic and pornographic websites, which also displayed her photos without permission. In December 2014, the Supreme Court of Argentina gave judgment in the case stressing the significant role that search engines play in relation to freedom of expression. The Court ruled *“By organizing a vast pool of information, they facilitate*

access, diffusion and circulation of ideas and information, which are corollaries to the freedom of expression.”

- In the same judgment, an effort was made to provide for a nuanced and balanced approach by recognizing that both International Law and Municipal Law in other jurisdictions provide the simultaneous right to privacy along right to freedom of expression. Thus, a rule that exempted the media of from any to liability for merely reproducing content created by third parties was evolved. However, to claim an exception some guidelines must be followed by the media. It must: -

1) Cite the source of information

2) The reproduction must be accurate.

The ruling ultimately ruled that search engines were a part of this category of media, if they followed the above-mentioned guidelines. Thus the legislative intent clearly avails the Right to be forgotten in some magnitude.

III. UNITED STATES OF AMERICA

- The United States of America has a well-developed Legal system that protects the privacy of its citizens. The State of New York became the first to introduce a draft Right to protection bill A05323 in its State Assembly, which was titled “An act to amend the civil rights law and the civil practice law and rules, in relation to creating the right to be forgotten act”.
- Further, in March 2017, New York state introduced a bill proposing that individuals be allowed to require search engines and online speakers to remove information that is “inaccurate”, “irrelevant”, “inadequate”, or “excessive”, that is “no longer material to current public debate or discourse” and is causing demonstrable harm to the

subjects. The bill was largely on lines similar to the European Court of Justice's decision in **Google Spain SL vs. Agencia Española de Protección de Datos C-131/12** and **Melvin vs. Reid 112 Cal.App. 285, 297 P. 91 (1931)**. In the case of Melvin vs. Reid an ex-prostitute was charged with murder and then acquitted; she subsequently tried to assume a quiet and anonymous place in society. However, the 1925 film *The Red Kimono* revealed her history, and she successfully sued the producer wherein the court reasoned as follows: -

“Any person living a life of rectitude has that right to happiness which includes a freedom from unnecessary attacks on his character, social standing or reputation.”

IV. AUSTRALIA

- The Federal Government's Australian Law Reform Commission (**ALRC**) released a discussion paper in March 2014, titled 'Serious Invasions of Privacy in the Digital Era'. The paper acknowledges that the longer information which represents an invasion of privacy is available, the greater its capacity for harm – a function of today's digital era.
- The ALRC has therefore recommended a new Australian Privacy Principle, which would allow an individual recourse to a simple mechanism to request destruction / de-identification of personal information provided to an entity by the individual. According to this proposal, the APP entity (as defined in the Privacy Act 1988 (Cth) – the Act) would then be required either to comply with the request within a reasonable time, or provide the individual with reasons for its non-compliance.

- This recommendation is distinct from the European Directive, in that it does not facilitate requests for removal of information posted by others about an individual. The proposed Privacy Principle both complements the already-existing Privacy Principles, and empowers individuals to request that their personal information be corrected. It also triggers an APP entity's obligation to delete personal information, where an individual request this and the information is no longer required for a specific purpose set out under the Australian Privacy Principles.
- Importantly, recourse to enforcement mechanisms is available where an individual is of the opinion that an APP entity has failed to comply with its request. These include making complaints to the Office of the Australian Information Commissioner (as the failure to comply would constitute interference with privacy under the Act) and in the case of serious or repeated failure to comply, civil and possible pecuniary penalties.

V. BRITAIN

- In **Equustek Solutions Inc v Morgan Jack and others (2014 BCSC 1063)**(“Equustek”), the British Columbia Supreme Court issued an injunction requiring Google to de-index certain websites from its search results. Prior to initiating legal proceedings, the plaintiff had previously requested Google's help in blocking specific URLs. However, the content continued to appear through different domains, illustrating how the “whac-a-mole” approach to content-blocking can be ineffective.
- The underlying dispute between the parties was based on allegations that the defendants were exploiting the plaintiff's goodwill by exclusively advertising the plaintiff's products (networking devices

related to industrial equipment) on their website. Importantly, while Google was not a party to these proceedings, the court in this instance permitted the plaintiff to apply for the injunction restraining both Google, Inc. and Google Canada Corporation from including the defendant's websites in their search results. The court found that it had jurisdictional competence to hear the claim because it related to preventing a party from doing something in relation to "moveable property in British Columbia". This was said to be a weak but sufficient connecting factor as Google is a worldwide search provider based in California, and was a non-party to the primary action conducting legitimate independent business.

- In granting the injunction against Google, the Court specifically cited the need to "adapt to reality of e-commerce with its potential for abuse by those who would take the property of others and sell it through the borderless electronic web of the internet" (at [159]). The court in *Equustek* specifically stated that the Court's processes could not be protected unless the injunction ensured that searchers from any jurisdiction could not find the relevant websites.

VI. CANADA

- The Supreme Court of Canada released a landmark decision ruling that Canadian common law courts have the jurisdiction to make global de-indexing orders against search engines like Google. In so, ordering, the Court in **Google Inc. v. Equustek Solutions Inc., 2017 SCC 34** underlined the breadth of courts' jurisdiction to make orders against search engines to stem illegal activities on the Internet including the sale of products manufactured using trade secrets misappropriated from innovative companies.

- The Supreme Court of Canada, in a seven to two majority decision written by Justice Abella, affirmed the said decisions. Google had argued that courts had no jurisdiction to make orders against it as a non-party to the litigation. It argued that any order against it should have been limited to the google.ca search engine. It also contended that the worldwide order would violate the principle of comity and rights of freedom of expression. The Court rejected each of these arguments and found that the balance of convenience inclined towards the Petitioner and in favor of granting the order.

VII. SPAIN

- In 2010 Mario Costeja González, a Spanish national, lodged a complaint with the Spanish Data Protection Agency, the ‘AEPD’, against the publisher of a daily newspaper, La Vanguardia Ediciones SL, and against Google Spain and Google Inc. Mr Costeja González contended that, when an internet user entered his name in the search engine of the Google group (‘Google Search’), the list of results would display links to two pages of La Vanguardia’s newspaper, of January and March 1998. Those pages in particular contained an announcement for a real-estate auction organized following attachment proceedings for the recovery of social security debts owed by Mr Costeja González. In this context, Mr Costeja González also stated that the attachment proceedings concerning him had been fully resolved for a number of years and that reference to them was now entirely irrelevant.
- The European Court of Justice upheld Mr Costeja González’s complaint, finding that people had the right to request information be removed if it appeared to be "inadequate, irrelevant or no longer relevant". The ECJ stated:

“An internet search engine operator is responsible for the processing that it carries out of personal data which appear on web pages published by third parties. Thus, if, following a search made on the basis of a person’s name, the list of results displays a link to a web page which contains information on the person in question, that data subject may approach the operator directly and, where the operator does not grant his request, bring the matter before the competent authorities in order to obtain, under certain conditions, the removal of that link from the list of results.”

- The ruling makes clear that a search engine such as Google has to take responsibility as a "data controller" for the content that it links to and may be required to purge its results even if the material was previously published legally.

16. That the issue of Right to be Forgotten revolves around the question that whether an individual should be granted a right for deletion of data generated from the list of results promoted by search engines, websites, social networks, blogs, etc which are completely irrelevant and immaterial in the present times.

17. That the Constitution of India does not expressly recognize the "Right to be Forgotten". However, Hon'ble Supreme Court in the case of **Kharak Singh v. State of U.P 1964 1 SCR 332** held that Right to Life includes personal liberty and thus, right to privacy culled from Article 21 of the Indian constitution.

18. That in the case of **R. Rajagopal v. State of T.N 1994 6 SCC 632** Hon'ble Supreme Court stated that the right to privacy was implicit in the right to life and liberty guaranteed to the citizens of this country by Article 21. Further Hon'ble Supreme court held that

"The right to privacy is implicit in the right to life and liberty guaranteed to the citizens of this country by Article 21. It is a "right to be let alone". A

citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child bearing and education among other matters.

None can publish anything concerning the above matters without his consent - whether truthful or otherwise and whether laudatory or critical. If he does so, he would be violating the right to privacy of the person concerned and would be liable in an action for damages. Position may, however, be different, if a person voluntarily thrusts himself into controversy or voluntarily invites or raises a controversy."

The Hon'ble Supreme Court directed its registry that it should endeavour to ensure that any internet search made in the public domain ought not to reflect the petitioner's daughter's name in the case-title of the order or in the body of the order in the criminal petition.

19. That the Kerala High Court in **Civil Writ Petition No. 9478 of 2016** vide order dated February 23, 2017 has also ruled in favor of the Right to be Forgotten. In that case, a writ petition was filed before the Kerala High Court by the petitioner for protection of their Right to Privacy under Article 21 of the Constitution. The petitioner was seeking directions from the Hon'ble High Court to ensure that their identity would remain protected and the materials disclosing their identity on Indian Kanoon, Yahoo and Google would be removed or hidden appropriately. Due to the seriousness of the issue and failure of Indian Kanoon to appear before the Court despite being served with a notice, the Court vide its order dated 23.02.2017 ruled in favor of the petitioner directing Indian Kanoon to remove the name of the petitioner from orders posted on its website until further orders were issued.

20. That in the case of **Sri Vasunathan v The Registrar General W.P. No. 62038/2016**. The Petitioner (father) moved a Writ Petition before the Hon'ble Karnataka High Court seeking orders to block his daughter's name

in an earlier order passed by the hon'ble high Court, as his daughter feared the consequences of her name associated with this earlier matter and if a name –wise search was carried on by any person through any of the internet service provider such as Google and Yahoo, this order may reflect in the results of such a search. The Petitioners daughter was afraid that this would affect her relationship with her husband and her reputation and good-will in society. In the judgment Justice Anand Bypareddy Observed that

“...This would be in line with the trend in western countries of the ‘right to be forgotten’ in sensitive cases involving women in general and highly sensitive cases involving rape or affecting the modesty and reputation of the person concerned...”

The Court directed its registry that it should endeavour to ensure that any internet search made in the public domain ought not to reflect the petitioner's daughter's name in the case-title of the order or in the body of the order in the criminal petition.

21. That in an Article published on 15 December 1890 in the Harvard Law Review, Samuel D Warren and Louis Brandeis adverted to the evolution of the law to incorporate within it, the right to life as "**...a recognition of man's spiritual nature, of his feelings and his intellect...**". As legal rights were broadened, the right to life had "**...come to mean the right to enjoy life-the right to be let alone...**". Recognizing that "only a part of the pain, pleasure and profit of life lay in physical things" and that "thoughts, emotions, and sensations demanded legal recognition", Warren and Brandeis revealed with a sense of perspicacity the impact of technology on the right to be let alone: "**...Recent inventions and business methods call attention to the next step which must be taken for the protection of the person, and for securing to the individual what Judge Cooley calls the right 'to be let alone. Instantaneous photographs and newspaper enterprise have invaded the sacred precincts of private and**

domestic life; and numerous mechanical devices threaten to make good the prediction that "what is whispered in the closet shall be proclaimed from the house-tops." For years there has been a feeling that the law must afford some remedy for the unauthorized circulation of portraits of private persons..."

22. That Thomas Cooley who adopted the phrase "the right to be let alone", in his **Treatise on the Law of Torts**. Discussing personal immunity, Cooley stated: *"...the right of one's person may be said to be a right of complete immunity; the right to be alone..."*

23. That in **National Legal Services Authority v. Union of India** MANU/SC/0309/2014: (2014) 5 SCC 438 ("NALSA"), a Bench of two judges of Hon'ble supreme court explaining the ambit of article 21 of the Indian constitution held that: -

"...Article 21 is the heart and soul of the Indian Constitution, which speaks of the rights to life and personal liberty. Right to life is one of the basic fundamental rights and not even the State has the authority to violate or take away that right. Article 21 takes all those aspects of life which go to make a person's life meaningful. Article 21 protects the dignity of human life, one's personal autonomy, one's right to privacy, etc. Right to dignity has been recognized to be an essential part of the right to life and accrues to all persons on account of being humans. In Francis Coralie Mullin v. UT of Delhi [MANU/SC/0517/1981: (1981) 1 SCC 608: 1981 SCC (Cri) 212] (SCC pp. 618-19, paras 7 and 8), this Court held that the right to dignity forms an essential part of our constitutional culture which seeks to ensure the full development and evolution of persons and includes "expressing oneself in diverse forms, freely moving about and mixing and comingling with fellow human beings..."

"...Article 21, as already indicated, guarantees the protection of "personal autonomy" of an individual. In Anuj Garg v. Hotel Assn. of India

*[MANU/SC/8173/2007: (2008) 3 SCC 1] (SCC p. 15, paras 34-35), this Court held that **personal autonomy includes both the negative right of not to be subject to interference by others and the positive right of individuals to make decisions about their life, to express themselves and to choose which activities to take part in....***"

(Emphasis supplied)

24. That the concurring judgment of Justice Madan B Lokur in the case of **Supreme Court Advocates on Record Association v. Union of India MANU/SC/1183/2015: (2016) 5 SCC 1** dealt with privacy issues. Dealing with the right to know of the general public on the one hand and the right to privacy on the other hand, Justice Lokur noted that the latter is an "implicit fundamental right that all people enjoy". Justice Lokur observed thus: -

"...The balance between transparency and confidentiality is very delicate and if some sensitive information about a particular person is made public, it can have a far-reaching impact on his/her reputation and dignity. ""The right to know is not a fundamental right but at best it is an implicit fundamental right and it is hedged in with the implicit fundamental right to privacy that all people enjoy. ..."

(Emphasis supplied)

25. That in **Kesavananda Bharati v. State of Kerala MANU/SC/0445/1973: (1973) 4 SCC 225**, the then Hon'ble Chief Justice, Shri AK Sikri J. noticed that: -

*"...The Preamble is a part of the Constitution. The Preamble emphasises the need to secure to all citizens justice, liberty, equality and fraternity. Together they constitute the founding faith or the blueprint of values embodied with a sense of permanence in the constitutional document. **The Preamble speaks of securing liberty of thought, expression, belief, faith***

and worship. Fraternity is to be promoted to assure the dignity of the individual.... "

26. That in **Prem Shankar Shukla v. Delhi Administration MANU/SC/0084/1980: (1980) 3 SCC 526**, Justice Krishna Iyer, speaking for a three-judge Bench of the Hon'ble supreme court held:

"...the guarantee of human dignity, which forms part of our constitutional culture, and the positive provisions of Articles 14, 19 and 21 spring into action when we realize that to manacle man is more than to mortify him; it is to dehumanize him and, therefore, to violate his very personhood, too often using the mask of 'dangerousness' and security..."

(Emphasis supplied)

27. That Hon'ble supreme court two judges bench in the case of **Francis Coralie Mullin v. Union Territory of Delhi MANU/SC/0517/1981 : (1981) 1 SCC 608 ("Francis Coralie")** while construing the entitlement of a detainee under the Conservation of Foreign Exchange and Prevention of Smuggling Activities (COFEPOSA) Act, 1974 held that:

"...The fundamental right to life which is the most precious human right and which forms the ark of all other rights must therefore be interpreted in a broad and expansive spirit so as to invest it with significance and vitality which may endure for years to come and enhance the dignity of the individual and the worth of the human person.....the right to life enshrined in Article 21 cannot be restricted to mere animal existence. It means something much more than just physical survival..."

".... We think that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing one-self in diverse forms, freely moving about and mixing and commingling with fellow human beings..."

(Emphasis supplied)

28. That human dignity was construed in **M. Nagaraj v. Union of India MANU/SC/4560/2006 : (2006) 8 SCC 212** by a Constitution Bench of Hon'ble supreme Court to be intrinsic to and inseparable from human existence. Dignity, the Hon'ble Court held, is not something which is conferred and which can be taken away, because it is inalienable:

"...The rights, liberties and freedoms of the individual are not only to be protected against the State, they should be facilitated by it..."

*".... It is the duty of the State not only to protect the human dignity but to facilitate it by taking positive steps in that direction. No exact definition of human dignity exists. **It refers to the intrinsic value of every human being, which is to be respected. It cannot be taken away. It cannot give. It simply is. Every human being has dignity by virtue of his existence....**"*

(Emphasis supplied)

29. That in **Maharashtra University of Health Sciences v. Satchikitsa Prasarak Mandal MANU/SC/0136/2010: (2010) 3 SCC 786**, Hon'ble supreme court held that the dignity of the individual is a core constitutional concept. Further the Hon'ble Court recognizes that:

"...we must recognize that a forcible intrusion into a person's mental processes is also an affront to human dignity and liberty, often with grave and long-lasting consequences..."

(Emphasis supplied)

30. That in **Maneka Gandhi vs. Union of India MANU /SC /0133 /1978 : (1978) 1 SCC 248**, Hon'ble supreme court stated that:

"...The attempt of the court should be to expand the reach and ambit of the fundamental rights rather than attenuate their meaning and content by process of judicial construction..."

"...personal liberty" in Article 21 is of the widest amplitude..."

31. That in **NM and Ors. v. Smith and Ors. 2007 (5) SA 250 (CC)**, the names of three women who were HIV positive were disclosed in a biography.

They alleged that the publication, without their prior consent, violated their rights to privacy, dignity and psychological integrity. The Court by majority held that

"...An implicit part of [the first] aspect of privacy is the right to choose what personal information of ours is released into the public space. The more intimate that information, the more important it is in fostering privacy, dignity and autonomy that an individual makes the primary decision whether to release the information. That decision should not be made by others. This aspect of the right to privacy must be respected by all of us, not only the state.

...Secondly, we value privacy as a necessary part of a democratic society and as a constraint on the power of the state... In authoritarian societies, the state generally does not afford such protection. People and homes are often routinely searched and the possibility of a private space from which the state can be excluded is often denied. The consequence is a denial of liberty and human dignity. In democratic societies, this is impermissible...."

(Emphasis supplied)

32. That the Hon'ble supreme court has endorsed the view that 'life' must mean "something more than mere animal existence", on a number of occasions, beginning with the Constitution Bench in **Sunil Batra (I) v. Delhi Administration** MANU/SC/0184/1978: (1978) 4 SCC 494 connected this view of Article 21 to the constitutional value of dignity. In numerous other cases, including **Francis Coralie Mullin v. Administrator, Union Territory of Delhi** MANU/SC/0517/1981: (1981) 1 SCC 608, Hon'ble court has viewed liberty as closely linked to dignity. Their relationship to the effect of taking into the protection of 'life' the protection of "faculties of thinking and feeling", and of temporary and permanent impairments to those faculties. In Francis Coralie Mullin, Bhagwati, J. opined as follows:

"...Now obviously, the right to life enshrined in Article 21 cannot be restricted to mere animal existence. It means something much more than just physical survival. In Kharak Singh v. State of Uttar Pradesh, Subba Rao J. quoted with approval the following passage from the judgment of Field J. in Munn v. Illinois to emphasize the quality of life covered by Article 21: By the term "life" as here used something more is meant than mere animal existence. The inhibition against its deprivation extends to all those limbs and faculties by which life is enjoyed. The provision equally prohibits the mutilation of the body or amputation of an arm or leg or the putting out of an eye or the destruction of any other organ of the body through which the soul communicates with the outer world.....and this passage was again accepted as laying down the correct law by the Constitution Bench of this Court in the first Sunil Batra case (supra). Every limb or faculty through which life is enjoyed is thus protected by Article 21 and a fortiori, this would include the faculties of thinking and feeling. Now deprivation which is inhibited by Article 21 may be total or partial, neither any limb or faculty can be totally destroyed nor can it be partially damaged. Moreover it is every kind of deprivation that is hit by Article 21, whether such deprivation be permanent or temporary and, furthermore, deprivation is not an act which is complete once and for all: it is a continuing act and so long as it lasts, it must be in accordance with procedure established by law. It is therefore clear that any act which damages or injures or interferes with the use of, any limb or faculty of a person, either permanently or even temporarily, would be within the inhibition of Article 21..."

(Emphasis supplied)

33. That Justice S. Bopade in the case of **Justice K.S. Puttaswamy and Ors. vs. Union of India (UOI) and Ors. (24.08.2017 - SC) : MANU/SC/1044/2017** held that

"It is difficult to see how dignity - whose constitutional significance is acknowledged both by the Preamble and by this Court in its exposition of Article 21, among other rights - can be assured to the individual without privacy.

Both dignity and privacy are intimately intertwined and are natural conditions for the birth and death of individuals, and for many significant events in life between these events. Necessarily, then, the right of privacy is an integral part of both 'life' and 'personal liberty' Under Article 21, and is intended to enable the rights bearer to develop her potential to the fullest extent made possible only in consonance with the constitutional values expressed in the Preamble as well as across Part III."

34. That in this regard in **First B.N. Rau Memorial Lecture on "Judicial Methods"** M. Hidayatullah, J. observed:

"...More freedom exists in the interpretation of the Constitution than in the interpretation of ordinary laws. This is due to the fact that the ordinary law is more often before courts, that there are always dicta of judges readily available while in the domain of constitutional law there is again and again novelty of situation and approach..."

35. That additionally it is worthwhile to see the observations made in paragraphs 324 to 326 in **Supreme Court Advocates-on-Record Assn, MANU/SC/0073/1994: (1993) 4 SCC 441: (SCC pp. 645-46)**

".... The case before us must be considered in the light of our entire experience and not merely in that of what was said by the framers of the Constitution. While deciding the questions posed before us we must consider what is the judiciary today and not what it was fifty years back. The Constitution has not only to be read in the light of contemporary circumstances and values, it has to be read in such a way that the circumstances and values of the present generation are given expression

in its provisions. An eminent jurist observed that 'constitutional interpretation is as much a process of creation as one of discovery...."

Hence the ambit of Article 21 should be accordingly expanded in the present circumstances of the case for availing a legitimate remedy of being forgotten to the Petitioner.

36. That Hon'ble Justice S.A. Bobde while delivering his valuable judgment in the case of **Justice K. S. Puttaswamy (Retd.) and Anr. v. Union of India and Ors (supra)** observed as follows:-

*"... I agree with Dr. D.Y. Chandrachud, J., that formulation of data protection is a complex exercise which needs to be undertaken by the State after a careful balancing of privacy concerns and legitimate State interests, including public benefit arising from scientific and historical research based on data collected and processed. The European Union Regulation of 2016385 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data may provide useful guidance in this regard. **The State must ensure that information is not used without the consent of users and that it is used for the purpose and to the extent it was disclosed...."***

37. That in the case of **Justice K. S. Puttaswamy (Retd.) and Anr. v. Union of India and Ors (supra)** in which the Hon'ble Supreme Court of India declared privacy a fundamental right Justice Kaul, in his separate but concurring judgment on the nine-judge Bench observed that: -

*"...The impact of the digital age results in information on the internet being permanent. Humans forget, but the Internet does not forget and does not let humans forget. Any endeavour to remove information from the internet does not result in its absolute obliteration. **The footprints remain. It is thus, said that in the digital world preservation is the norm and forgetting a struggle and the right of an individual to exercise control over his***

personal data and to be able to control his/her own life would also encompass his right to control his existence on the internet. Such a right would not be an absolute right. The existence of such a right does not imply that a criminal can obliterate his past, but that there are variant degrees of mistakes, small and big, and it cannot be said that a person should be profiled to the nth extent for all and sundry to know...."

38. That this Hon'ble High Court in a different case had previously adjudicated the issue raised in the present petition. In **Zulfiqar Ahman Khan versus Quintillion Business Media Private Ltd. and others CS(OS)642 2018 in its order dated 09.05.2019** this Hon'ble Court recognized that "Right to be Forgotten" and "Right to be left alone" are an integral and inherent aspect of the "Right to Privacy". In the said order Hon'ble court granted interim injunction on republication of articles written and published by the respondents against the plaintiff on the basis of the harassment complaint received by the Respondents (against the plaintiff) as a part of the #Me Too movement. An abstract from the abovementioned order is hereinafter cited for your kind perusal

"...Accordingly, recognizing the Plaintiff's Right to privacy, of which the 'Right to be Forgotten' and the 'Right to be left alone' are inherent aspects, it is directed that any republication of the content of the originally impugned articles dated 12th October 2018 and 31st October 2018, or any extracts/ or excerpts thereof, as also modified versions thereof, on any print or digital/electronic platform shall stand restrained during the pendency of the present suit...".

Further, the Respondent has not challenged the said judgment, either in any other High Courts or before the Hon'ble Supreme court of India.

39. That a writ petition **LakshVir Singh Yadav vs. Union of India WP(C) 1021/2016 (Del.)** – (No further details could be found in public domain) is presently pending before this Hon'ble High court. In this case the

fundamental question asked by the Hon'ble High Court to Union government and Google was whether right to privacy include right to delink from the internet the irrelevant information. The petition also raised the question “whether data controllers or intermediaries such as Google, are required to delete information that is inadequate, irrelevant or no longer relevant if they receive a request for removal of such data.”

40. That, the Petitioner is person belong from a normal middle income group and is not guided by self-gain or for gain of any other person/institution/body and is bringing the instant issue to the attention of the Hon'ble Court in bonafide interest of the Petitioner which is clear from the facts of the Petition.
41. That recently Hon'ble Kerala High Court in the case of **Nikhil S Rajan versus Union of India & Ors** has also admitted a petition seeking the erasure of a person's personal details from a Google search results.
42. That, the Petitioner have not stated or reiterated or quoted any paragraph from the contents or relief columns from other petitions pending before this Hon'ble Court. The contents and reliefs of the petition are differently dealt with in the present petition.
43. That prior to filing this petition, the Petitioner has also approached Respondent no.5 via email dated 24.08.2021 for delinking/ removing Petitioner's name from a list of websites but to no avail. A true copy of letter sent to Google LLC via email dated 24.08.2021 and their subsequent auto generated reply is hereby annexed and marked as **Annexure- P2 (colly)**.
44. That thereafter the Petitioner approached Respondent no.1 via letter dated 11.02.2021. However Respondent no.1 also recklessly didn't pay any heed to the legitimate concerns raised by the Petitioner. A true copy of the email dated 11.02.2021 is hereby annexed and marked as **Annexure- P-3**.

45. That the Petitioner has suffered irreparable harm and injury to his reputation due to the irrelevant posts which were uploaded on various social media platforms about a decade ago and have no relevance in the present times. Further, until such posts are not taken down, the Petitioner's reputation will continue to degrade, trivialize and tarnish in the eyes of future generations.
46. That this Hon'ble High Court has territorial jurisdiction to entertain & adjudicate this instant issue as Respondent nos. 1 to 4 are having their headquarters in the region of NCT Delhi.
47. That the Right to Privacy as enshrined under article 21 of our constitution, as interpreted in the **Puttaswamy judgment (supra)** does not avail a sufficient and an adequate remedy to the Petitioner as the instant case flounders to protect and safeguard an embryonic right i.e. the Right to be forgotten.

“...488. Thus, The European Union Regulation of 2016384 has recognized what has been termed as 'the right to be forgotten'. This does not mean that all aspects of earlier existence are to be obliterated, as some may have a social ramification. If we were to recognize a similar right, it would only mean that an individual who is no longer desirous of his personal data to be processed or stored, should be able to remove it from the system where the personal data/information is no longer necessary, relevant, or is incorrect and serves no legitimate interest. Such a right cannot be exercised where the information/data is necessary, for exercising the right of freedom of expression and information, for compliance with legal obligations, for the performance of a task carried out in public interest, on the grounds of public interest in the area of public health, for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, or for the establishment, exercise or defence of

legal claims. Such justifications would be valid in all cases of breach of privacy, including breaches of data privacy... ”

48. Hence, having not left with any other efficacious remedies this Writ Petition under Article 226 of the Constitution of India, on the following

GROUND

- A. Because an individual should have a right to control their personal information and identity in the digital age. Information communication technologies allow both government and private entities to significantly interfere with an individual's right to privacy by enabling them to track and record all activities online. Meanwhile, individuals are encouraged to share a considerable amount of information about themselves on social media in an unprecedented manner. It is therefore the responsibility of governments and lawmakers to protect the right to data protection and privacy lest people lose their ability to manage their identity and personal integrity. Moreover, individuals should have ownership of their personal information. The “right to be forgotten” thus empowers people to regain control over their digital lives.
- B. Because most of the personal information available online has no public interest value. Digital technologies have fostered an era of information overload. Some argue that only information that is relevant and in public interest should have its accessibility safeguarded, and that not all information is of this nature. The vast majority of personal information available online is of limited intrinsic value, whereas its accessibility could have disastrous consequences on people's lives, such information may thwart their employment prospects, hamper their ability to obtain the credit they need, or simply prevent them from living their lives with dignity.
- C. Because there is no right to access private information which is unlawfully in the public domain. Most of the personal information in the public

domain is there unlawfully, such as intimate photos distributed on the Internet without consent. There is no justification for other people to have access to such information.

- D. Because people should not be indefinitely reminded of their past mistakes. Even when information is lawfully in the public domain or originally shared by the individual with his or her consent, people have a right to make mistakes without being haunted by them indefinitely. This is already recognized by the law in relation to spent convictions; the same should be true in the digital environment. Failure to recognize the “right to be forgotten” allows a distorted view of individuals to be presented by search engines which list links to juvenile or other errors in top search results for a person’s name. In the case of children, this might impede their development and diminish their sense of self-worth. Furthermore, the original publication may have been authorized at a time when their capacity to properly consent or understand its implications was under-developed. Thereby Petitioner's occupational rights as enshrined under article 19 of the constitution stands violated.
- E. Because it is a form of the “right of reply” in the context of internet searches. In many countries, the law already recognizes a right of reply or right of correction against false information published or aired in print or broadcast media. There is no reason in principle why an equivalent remedy to the right of reply should not exist for search results in order for individuals to contextualize information about themselves. Since it is currently not technologically feasible to enable such a right of reply for search results, the “right to be forgotten” is the next best option.
- F. Because it is compatible with the Right to freedom of expression. In the *Costeja decision (supra)*, the learned CJEU took freedom of expression concerns into account and thereby held that intermediaries like Google, Youtube etc has to take responsibility as a "data controller" for the content

that it links to and may be required to purge its results even if the material was previously published legally.

G. Because in a series of judgments Hon'ble supreme court has held that Article 21 of the Constitution of India guarantees the citizen of India "Right to life" and Right to life includes "Right to Privacy and live with dignity".

H. Because India being a State Party to the International Covenant on Civil and Political Rights which casts an obligation on states to respect, protect and fulfil its norms. The duty of a State to respect mandates that it must not violate the right and the government must protect it against interference by private parties. While elaborating the rights Under Article 17 of ICCPR, general comment 16 specifically stipulates that:

"... there is universal recognition of the fundamental importance, and enduring relevance, of the right to privacy and of the need to ensure that it is safeguarded, in law and practice".

Significantly, while acceding to the ICCPR, India did not file any reservation or declaration to Article 17. While India filed reservations against Articles 1, 9 and 13, there was none to Article 17. The above prescription for must be read into Article 14 and Article 21 in consonance with the Hon'ble Supreme Court's observation in *Vishakha v. State of Rajasthan*, reported as (1997) 6 SCC 241 [para 7], that "... any International Convention not inconsistent with the fundamental rights and in harmony with its spirit must be read into these provisions to enlarge the meaning and content thereof, to promote the object of the constitutional guarantee..." Therefore, the guarantees of Article 17 of the ICCPR must be taken into consideration to give meaning to these provisions of the Constitution. The guarantees must include the Right to be Forgotten and an individualized support measures for meaningful inclusion. Further it is pertinent to place on record that that in **Bachan Singh v. State of Punjab** MANU/SC/0111/1980 : (1980) 2 SCC 684, the Hon'ble supreme court

considered in relation to the death penalty, the obligations assumed by India in international law, following the ratification of the ICCPR. The Court held that the requirements of Article 6 of the ICCPR are substantially similar to the guarantees contained in Articles 20 and 21 of the Constitution. The penal law of India was held to be in accord with its international commitments. In *Francis Coralie*, the Hon'ble Court, while explaining the ambit of Article 21, held that:

"...there is implicit in Article 21 the right to protection against torture or cruel, inhuman or degrading treatment which is enunciated in Article 5 of the Universal Declaration of Human Rights and guaranteed by Article 7 of the International Covenant on Civil and Political Rights..."

- I. Because on 30 June 2014, a report was presented by the Office of the United Nations High Commissioner for Human Rights and the report underscores that:

"...there is universal recognition of the fundamental importance, and enduring relevance, of the right to privacy and of the need to ensure that it is safeguarded, in law and in practice...." and the same cannot be safeguarded without availing Right to be Forgotten to the Petitioner.

- J. Because "Right to be forgotten" is in sync with the right to privacy, which was hailed by the Hon'ble Supreme court as an integral part of Article 21 (Right to life) of the constitution in **Puttaswamy judgement 2017 (supra)**.

- K. Because Justice BN Srikrishna Committee, which drafted Personal Data Protection Bill 2018, has introduced a new right called the Right to be Forgotten, which refers to the **ability of an individual to limit, delink, delete, or correct the disclosure of the personal information on the internet** that is misleading, embarrassing, or irrelevant.

- L. Because by virtue of Hon'ble Delhi High court's recent order in the case of **JAGRAN PRAKASHAN LIMITED versus TELEGRAM FZ LLC &**

ORS. CS(COMM) 146/2021 whereby it was held that online platforms i.e. Google, Youtube, Telegram, Whatsapp etc being an intermediary cannot escape their liability under the shade & guise of sec 79 (Exemption of liability of intermediary in certain cases) of Information technology act 2000.

M. Because it is extremely serious that the Petitioner is compelled to live under mental depression owing to the article published under his name which are having no relevancy in the present times and as the Petitioner is not having any other efficacious remedy except this petition before this Hon'ble court.

PRAYER

In the circumstances mentioned above, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to: -

- a) Issue an appropriate writ or direction or order thereby giving necessary directing the Respondent no.1 to give effective and time bound instructions to Respondent no.5 for removing all the posts, videos, articles written under the name of Petitioner, which are irrelevant in the present times and causing grave injury to the Petitioner's dignity and reputation.
- b) Pass such other writ or order or direction which this Hon'ble court deems necessary for safeguarding Petitioner's dignity including availing Petitioner the Right to be Forgotten.



Petitioner

Through



Akshat Bajpai, Ishanee Sharma, Shreya Gupta (Advocates)

C-61, LGF Jangpura Extension

New Delhi-110014

Mob: 7985177435

Email: bajpaiakshat@gmail.com

Dated-22.03.2021

Place: -New Delhi

IN THE HIGH COURT OF DELHI AT NEW DELHI

EXTRA ORDINARY CIVIL JURISDICTION

Writ Petition No. of 2021

IN THE MATTER OF:

MR. ASHUTOSH KAUSHIK

PETITIONER

VERSUS

UNION OF INDIA AND ORS.

RESPONDENTS

AFFIDAVIT

I, Ashutosh Kaushik, aged about 41 years, s/o late Divender Sharma
Resident of 48A ground Floor Century app. Sec 100, do hereby
solemnly affirm and state as under: (currently in New Delhi) (Noida)

1. I am fully conversant with the facts of the case and have read the contents of the petition, additionally my counsel has explained me the accompanying petition, in a vernacular language which is understood by me. Further I have also examined all the relevant documents and records in relation thereto.
2. That the accompanying petition, has been drafted by the counsel under my instructions and I have read and understood the contents thereof.

DEPONENT

VERIFICATION

10 FEB 2021

Verified at New Delhi on this ____ day of ____ 2021 that the contents of the present affidavit are true and correct to my knowledge, nothing material has been concealed and no part is false.

DEPONENT

10 FEB 2021

CERTIFIED THAT THE DEPONENT
has solemnly affirmed and stated as under:
that the contents of the affidavit which have
been read & explained to me are true and
correct to his knowledge.

Oath Commissioner Delhi

ANNEXURE P-1(COLLY)

| S.no | Uniform Resource Locator |
|------|---|
| 1. | https://www.youtube.com/watch?v=fgF2-ll5Ws4 |
| 2. | https://www.youtube.com/watch?v=bcvRyie_LI |
| 3. | https://www.youtube.com/watch?v=Z-j0caQbOAY |
| 4. | https://www.youtube.com/watch?v=huWZJMe--z8 |
| 5. | https://www.youtube.com/watch?v=P63EXKMic24 |
| 6. | https://www.google.com/url?sa=i&url=https%3A%2F%2Fwww.youtube.com%2Fwatch%3Fv%3DfgF2ll5Ws4&psig=AOvVaw3DiXcyuJlRDh4QTz11ZR6&ust=1598257662404000&source=images&cd=vfe&ved=0CA0QjhqxqFwoTCNC97_TzsOsCFQAAAAAdAAAAABAD |
| 7. | https://www.dnaindia.com/mumbai/report-ashutosh-kaushik-arrested-for-drunken-driving-1264602 |
| 8. | https://www.mid-day.com/articles/drunken-big-boss-winner-ashutosh-kaushik-creates-ruckus-at-mumbai-cafe/204213 |
| 9. | https://zeenews.india.com/videos/ashutosh-kaushiks-drunken-drama_20172.html |
| 10. | https://www.indiatvnews.com/news/india/drunken-mtv-roadies-winner-ashutosh-kaushik-gets-rowdy-on-flight-29462.html |
| 11. | https://zeenews.india.com/entertainment/videos/big-boss-2-winner-ashutosh-kaushiks-drunken-drama_1764.htm |
| 12. | https://www.hindustantimes.com/tv/big-boss-busts-ashu/story-yyGirCr1NpRh7zbU32nppJ.html |
| 13. | https://www.hindustantimes.com/india/big-boss-2-winner-held-for-drunken-driving/story-66OH2jFHnsUf9EjUMDpW2H.html |
| 14. | http://www.kemmannu.com/index.php?action=highlights&type=5251 |
| 15. | https://daily.bhaskar.com/news/ENT-TV-caught-in-undergarments-big-boss-2-winner-ashutosh-kaushik-detained-for-drunken-4452520-NOR.html |
| 16. | https://www.tellychakkar.com/tv/tv-news/ashutosh-kaushik-fined-drunken-driving |
| 17. | https://indianexpress.com/article/entertainment/entertainment-others/big-boss-2-winner-ashutosh-charged-with-drunken-driving/ |
| 18. | http://archive.indianexpress.com/news/big-boss-2-winner-ashutosh-charged-with-drunken-driving/476012/ |
| 19. | https://www.news18.com/news/india/ashutosh-gets-jc-from-pti-318956.html |

Bigg Boss2 winner Ashutosh Kaushik involved in Mumbai bar fracas

Mumbai, March 14 : Bigg Boss2 winner Ashutosh Kaushik was involved in a nasty fight with organisers at the Red Ant Cafe in Andheri West, Mumbai on Wednesday night. Ashutosh, who had gone there along with



India TV News Desk

Updated on: March 14, 2013 9:25 IST



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《英雄
战争》

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不容易。让
你的大脑
转动起来。
解决方法
显而易见。

Waiting for www.indiatvnews.com...



4K视频流畅播放

Znet VPN

打开 >

TOP NEWS



DRI seizes 6.9kg of smuggled gold worth Rs 3.18cr in Indore



Kartik Aaryan tests positive for COVID-19



**ANNEXURE P-2 (colly)**

vijay kandpal <vjkdpl@gmail.com>

Fwd: Legal notice to GOOGLE INDIA/ YOUTUBE INDIA for erasure/ remove/ delink of all the irrelevant articles, videos, photos of Mr. Ashutosh Kaushik that are causing grave, irreparable injury to his privacy, dignity and reputation.

1 message

Akshat Bajpai <bajpaiakshat@gmail.com>
To: vjkdpl@gmail.com

Thu, Feb 11, 2021 at 3:12 PM

----- Forwarded message -----

From: **Akshat Bajpai** <bajpaiakshat@gmail.com>

Date: Mon, 24 Aug, 2020, 5:58 pm

Subject: Legal notice to GOOGLE INDIA/ YOUTUBE INDIA for erasure/ remove/ delink of all the irrelevant articles, videos, photos of Mr. Ashutosh Kaushik that are causing grave, irreparable injury to his privacy, dignity and reputation.

To: <support-in@google.com>

Cc: <ashutosh.kaushik07@gmail.com>

Dear Sir,

I am representing my Client Mr. Ashutosh Kaushik. Under instructions of and on behalf of my Client, I hereby serve upon you, the Noticee, the attached notice, without prejudice to the rights of my Client.

The present notice is in relation to erasure all the posts, videos, articles written under the name of my client, which are irrelevant in the present times and causing grave, irreparable injury to my client's privacy, dignity and reputation.

You are requested to kindly acknowledge the receipt of this email, at the earliest.

Regards,

Akshat Bajpai, Advocate

C 61 LGF, Jangpurra Extension, New Delhi 110014

Mob: 7985177435

**Legal Notice to Google from Mr Ashutosh Kaushik 24.08.2020.pdf**

307K

Akshat Bajpai, Advocate
C-61 LGF Jangpura Extension 110014
Mob: 7985177435, 9455005329
Email: bajpaiakshat@gmail.com

WITHOUT PREJUDICE

Through Email

Date 24.08.2020

To,

Google LLC

Joe Grier

1600 Amphitheatre Parkway

Mountain View, CA 94043

USA

Subject:- Legal notice to GOOGLE INDIA/ YOUTUBE INDIA for erasure/ remove/ delink of all the irrelevant articles, videos, photos of Mr. Ashutosh Kaushik that are causing grave, irreparable injury to his privacy, dignity and reputation.

I represent my Client Mr. Ashutosh Kaushik (hereinafter referred to as my Client). Under the instruction on and behalf of my Client, I hereby serve upon you, the Noticee, the present notice.

The present notice is in relation to erasure all the posts, videos, articles written under the name of my client, which are irrelevant in the present times and causing grave, irreparable injury to my client's privacy, dignity and reputation.

1. That my Client is a renowned public figure, prominent actor, reality show celebrity and has won MTV Hero Honda Roadies 5.0 in 2007 and 2nd season of Big Boss in 2008. Thereafter my client has also participated as a video jockey in MTV Roadies 8th and 6th season of Big Boss. Apart from above, my client has also acted in numerous bollywood movies like Zila Gaziabad, Kismat Love Paisa Dilli etc. However, despite attaining outstanding success in silver screen industry, my client had to suffer utmost psychological pain for his diminutive acts, which were erroneously committed a decade ago as recorded videos, photos, articles of the same are available on your online platform. A list of URL wherein all such articles, photos etc, which were posted/ uploaded approx a decade ago on various online platforms and are accessible, irrelevant in the present times is hereby annexed and marked as **Annexure-1**.
2. That the "Right to be Forgotten" reflects the claim of an individual to have certain data deleted so that third persons can no longer trace them. The right enables a person to silence the past events of his life that are no longer occurring. Thus, the "Right to be Forgotten" entitles individuals to have information, videos or photographs about themselves deleted from certain internet records so that search engines cannot find them.
3. That in **Sri Vasunathan versus The Registrar General and others W.P. No. 62038/2016** Hon'ble Karnataka High Court in line with the trend among western countries bestowed the petitioner a "Right to be Forgotten" from online sources and thereby affirmed petitioner's prayer for removal of his daughter's name from case title of the case from internet. In doing so the Hon'ble court directed its registry that it should endeavor to ensure that any internet search made in the public domain ought not to reflect the petitioner's

daughter's name in the case-title of the order or in the body of the order in the criminal petition.

4. That Hon'ble Delhi High Court has also acknowledged the said right in **Zulfiqar Ahman Khan versus Quintillion Business Media Private Ltd. and others CS(OS)642 2018 in its order dated 09.05.2019** wherein the Hon'ble Court recognized that "Right to be Forgotten" and "Right to be left alone" are an integral and inherent aspect of the "Right to Privacy". In the said order Hon'ble court granted interim injunction on republication of articles written and published by the respondents against the plaintiff on the basis of the harassment complaint received by the Respondents (against the plaintiff) as a part of the #Me Too movement. An abstract from the abovementioned order is hereinafter cited for your kind perusal

"Accordingly, recognizing the Plaintiff's Right to privacy, of which the 'Right to be Forgotten' and the 'Right to be left alone' are inherent aspects, it is directed that any republication of the content of the originally impugned articles dated 12th October 2018 and 31st October 2018, or any extracts/ or excerpts thereof, as also modified versions thereof, on any print or digital/electronic platform shall stand restrained during the pendency of the present suit".

5. Further by virtue of Hon'ble Delhi court's recent order in the case of **Jagran Prakashan Limited versus Telegram Fz LLC & Ors. CS(COMM) 146/2020** wherein it was held that online platforms i.e. Google, Youtube, Telegram, Whatsapp etc being an intermediary cannot escape their liability under the shade of sec 79 (Exemption of liability of intermediary in certain cases) of Information technology act 2000.

Akshat Bajpai, Advocate
C-61 LGF Jangpura Extension 110014
Mob: 7985177435, 9455005329
Email: bajpaiakshat@gmail.com

6. That thus the aforementioned right bestowed by Hon'ble high court clearly enables my client to behest you a principled requisition for the removal/ delink/ erasure of all those videos/ articles/ photos from your platform/ search engine, as the same is engendering a detrimental effect on my client's life and personal liberty.
7. I, therefore, through this Notice finally call upon you to remove/ delink/ erasure of all the articles/ videos/ photos which are in prejudice to my client's rights, within clear 15 days from the date of receipt of this notice from your search engine, failing which my client reserves a right to take adequate legal recourse to safeguard his life, liberty and reputation against you before an appropriate authority and in that event you shall be fully responsible for the same.
8. This notice is written without prejudice to my client's right and remedies, all of which are hereby expressly reserved. A copy of this notice has been kept at my office for records. Should you have any questions, please contact the undersigned.

Regards,



Akshat Bajpai, Advocate

UP/2721/2016

For Mr. Ashutosh Kaushik

| S.no | Uniform Resource Locator |
|------|---|
| 1. | https://www.youtube.com/watch?v=fgF2-ll5Ws4 |
| 2. | https://www.youtube.com/watch?v=bcvRyie_LI |
| 3. | https://www.youtube.com/watch?v=Z-j0caQbOAY |
| 4. | https://www.youtube.com/watch?v=huWZJMe--z8 |
| 5. | https://www.youtube.com/watch?v=P63EXKMic24 |
| 6. | https://www.google.com/url?sa=i&url=https%3A%2F%2Fwww.youtube.com%2Fwatch%3Fv%3DfgF2ll5Ws4&psig=AOvVaw3DiXcyuJlRDh4QTz11ZR6&ust=1598257662404000&source=images&cd=vfe&ved=0CA0QjhqxqFwoTCNC97_TzsOsCFQAAAAAdAAAAABAD |
| 7. | https://www.dnaindia.com/mumbai/report-ashutosh-kaushik-arrested-for-drunk-driving-1264602 |
| 8. | https://www.mid-day.com/articles/drunk-bigg-boss-winner-ashutosh-kaushik-creates-ruckus-at-mumbai-cafe/204213 |
| 9. | https://zeenews.india.com/videos/ashutosh-kaushiks-drunken-drama_20172.html |
| 10. | https://www.indiatvnews.com/news/india/drunk-mtv-roadies-winner-ashutosh-kaushik-gets-rowdy-on-flight-29462.html |
| 11. | https://zeenews.india.com/entertainment/videos/bigg-boss-2-winner-ashutosh-kaushiks-drunken-drama_1764.htm |
| 12. | https://www.hindustantimes.com/tv/big-boss-busts-ashu/story-yyGirCr1NpRh7zbU32nppJ.html |
| 13. | https://www.hindustantimes.com/india/bigg-boss-2-winner-held-for-drink-driving/story-66OH2jFHnsUf9EjUMDpW2H.html |
| 14. | http://www.kemmannu.com/index.php?action=highlights&type=5251 |
| 15. | https://daily.bhaskar.com/news/ENT-TV-caught-in-undergarments-bigg-boss-2-winner-ashutosh-kaushik-detained-for-drunken-4452520-NOR.html |
| 16. | https://www.tellychakkar.com/tv/tv-news/ashutosh-kaushik-fined-drunk-driving |
| 17. | https://indianexpress.com/article/entertainment/entertainment-others/bigg-boss-2-winner-ashutosh-charged-with-drunken-driving/ |
| 18. | http://archive.indianexpress.com/news/bigg-boss-2-winner-ashutosh-charged-with-drunken-driving/476012/ |
| 19. | https://www.news18.com/news/india/ashutosh-gets-jc-from-pti-318956.html |



Legal notice to GOOGLE INDIA/ YOUTUBE INDIA for erasure/ remove/ delink of all the irrelevant articles, videos, photos of Mr. Ashutosh Kaushik that are causing grave, irreparable injury to his privacy, dignity and reputation. ➤



Inbox

**Akshat Bajpai** 24/8/2020

Dear Sir, I am representing my Client Mr. Ashutosh Kaushik. Under instructions of

**support-in@google.com** 24/8/2020

Dear Google user, Thank you for writing in to the Grievance Officer for India. We



Fwd: Directions pertaining to erasure of all the posts, videos, articles written under my name, which are irrelevant in the present times and causing grave, irreparable injury to my privacy, dignity and reputation.

1 message

Akshat Bajpai <bajpaiakshat@gmail.com>
To: vjkdpl@gmail.com

Mon, Mar 22, 2021 at 6:12 PM

----- Forwarded message -----

From: **Ashutosh Kaushik** <ashutosh.kaushik07@gmail.com>

Date: Mon, 22 Mar, 2021, 6:10 pm

Subject: Fwd: Directions pertaining to erasure of all the posts, videos, articles written under my name, which are irrelevant in the present times and causing grave, irreparable injury to my privacy, dignity and reputation.

To: <bajpaiakshat@gmail.com>

----- Forwarded message -----

From: **Ashutosh Kaushik** <ashutosh.kaushik07@gmail.com>

Date: Thu, 11 Feb 2021, 16:09

Subject: Directions pertaining to erasure of all the posts, videos, articles written under my name, which are irrelevant in the present times and causing grave, irreparable injury to my privacy, dignity and reputation.

To: <s.chaudhary@gov.in>

Final letter to Minst (2)_pagenumber (1).pdf



Final letter to Minst (2)_pagenumber (1).pdf

277K

Date:- 11.02.2021

To

Ms. Simmi Chaudhary

Economic Adviser

Ministry of Electronics and Information Technology (Government of India)

Electronics Niketan, 6, CGO Complex,

Lodhi Road, New Delhi: 110003

Subject:- Representation to Ministry of Electronics and Information Technology (Government of India) for erasure/ remove/ delink of all the irrelevant articles, videos, photos of Mr. Ashutosh Kaushik that are causing grave, irreparable injury to his privacy, dignity and reputation.

Respected Ma'am

I Ashutosh Kaushik s/o Late Virender Sharma r/o 48A Ground floor Century Apartment Sector 100 Noida (U.P), hereby serve upon you, the present letter. The present letter is in relation to seeking directions pertaining to erasure of all the posts, videos, articles written under my name, which are irrelevant in the present times and causing grave, irreparable injury to my privacy, dignity and reputation.

1. That I am a renowned public figure, actor, reality show celebrity and have won MTV Hero Honda Roadies 5.0 in 2007 and 2nd season of Big Boss in 2008. Thereafter I have also participated as a video jockey in MTV Roadies 8th and 6th season of Big Boss. Apart from above, I have also acted in numerous bollywood movies like Zila Gaziabad, Kismat Love Paisa Dilli etc. However, despite attaining outstanding success in silver screen industry, my client had to suffer utmost psychological pain for his diminutive acts, which were erroneously committed a decade ago as recorded videos, photos,

articles of the same are available on your online platform. A list of URL wherein all such articles, photos etc, which were posted/ uploaded approx a decade ago on various online platforms and are accessible, irrelevant in the present times is hereby annexed and marked as **Annexure-1**.

2. That the "Right to be Forgotten" reflects the claim of an individual to have certain data deleted so that third persons can no longer trace them. The right enables a person to silence the past events of his life that are no longer occurring. Thus, the "Right to be Forgotten" entitles individuals to have information, videos or photographs about themselves deleted from certain internet records so that search engines cannot find them.
3. That in **Sri Vasunathan versus The Registrar General and others W.P. No. 62038/2016** Hon'ble Karnataka High Court in line with the trend among western countries bestowed the petitioner a "Right to be Forgotten" from online sources and thereby affirmed petitioner's prayer for removal of his daughter's name from case title of the case from internet. In doing so the Hon'ble court directed its registry that it should endeavor to ensure that any internet search made in the public domain ought not to reflect the petitioner's daughter's name in the case-title of the order or in the body of the order in the criminal petition.
4. That Hon'ble Delhi High Court has also acknowledged the said right in **Zulfiqar Ahman Khan versus Quintillion Business Media Private Ltd. and others CS(OS)642 2018** in its order dated 09.05.2019 wherein the Hon'ble Court recognized that "Right to be Forgotten" and "Right to be left alone" are an integral and inherent aspect of the "Right to Privacy". In the said order Hon'ble court granted interim injunction on republication of articles written and published by the respondents against the plaintiff on the basis of the harassment complaint received by the Respondents (against the

plaintiff) as a part of the #Me Too movement. An abstract from the abovementioned order is hereinafter cited for your kind perusal "Accordingly, recognizing the Plaintiff's Right to privacy, of which the 'Right to be Forgotten' and the 'Right to be left alone' are inherent aspects, it is directed that any republication of the content of the originally impugned articles dated 12th October 2018 and 31st October 2018, or any extracts/ or excerpts thereof, as also modified versions thereof, on any print or digital/electronic platform shall stand restrained during the pendency of the present suit".

5. Further by virtue of Hon'ble Delhi court's recent order in the case of **Jagran Prakashan Limited versus Telegram Fz LLC & Ors. CS(COMM) 146/2020** wherein it was held that online platforms i.e. Google, Youtube, Telegram, Whatsapp etc being an intermediary cannot escape their liability under the shade of sec 79 (Exemption of liability of intermediary in certain cases) of Information technology act 2000. That thus the aforementioned right bestowed by Hon'ble high court clearly enables me to behest you a principled requisition for directing the removal/ delink/ erasure of all those videos/ articles/ photos from your platform/ search engine, as the same is engendering a detrimental effect on my client's life and personal liberty.
6. That earlier I through my Counsel had sent a legal notice to Google India grievance officer. Thereafter in furtherance of the legal notice dated 24.08.2020, an auto generated reply was sent by the noticee, however since then no action in this regard is taken by them. A true copy of noticee reply on legal notice dated 24.08.2020 is hereby annexed and marked as **Annexure-2**.
7. I, therefore, through this letter request you to direct the removal/ delink/ erasure of all the articles/ videos/ photos which are in prejudice to my rights,

within a reasonable period of 15 days from the date of receipt of this letter, failing which I shall reserve a right to take adequate legal recourse to safeguard his life, liberty and reputation against you before an appropriate authority.

8. This letter is written without prejudice to my right and remedies, all of which are hereby expressly reserved. Kindly do the needful at the earliest.

Regards,

A handwritten signature in black ink, appearing to read 'Ashutosh Kaushik', written in a cursive style.

Mr. Ashutosh Kaushik

Mob no. +91- 9027096999

| S.no | Uniform Resource Locator |
|------|---|
| 1. | https://www.youtube.com/watch?v=fgF2-ll5Ws4 |
| 2. | https://www.youtube.com/watch?v=bcvRyie LI |
| 3. | https://www.youtube.com/watch?v=Z-j0caQbOAY |
| 4. | https://www.youtube.com/watch?v=huWZJMe--z8 |
| 5. | https://www.youtube.com/watch?v=P63EXKMic24 |
| 6. | https://www.google.com/url?sa=i&url=https%3A%2F%2Fwww.youtube.com%2Fwatch%3Fv%3DfgF2ll5Ws4&psig=AOvVaw3DiXcyuJlRDh4QTz11ZR6&ust=1598257662404000&source=images&cd=vfe&ved=0CA0QjhXqFwoTCNC97_TzsOsCFQAAAAAdAAAAABAD |
| 7. | https://www.dnaindia.com/mumbai/report-ashutosh-kaushik-arrested-for-drunk-driving-1264602 |
| 8. | https://www.mid-day.com/articles/drunk-bigg-boss-winner-ashutosh-kaushik-creates-ruckus-at-mumbai-cafe/204213 |
| 9. | https://zeenews.india.com/videos/ashutosh-kaushiks-drunken-drama_20172.html |
| 10. | https://www.indiatvnews.com/news/india/drunk-mtv-roadies-winner-ashutosh-kaushik-gets-rowdy-on-flight-29462.html |
| 11. | https://zeenews.india.com/entertainment/videos/bigg-boss-2-winner-ashutosh-kaushiks-drunken-drama_1764.htm |
| 12. | https://www.hindustantimes.com/tv/big-boss-busts-ashu/story-yyGirCr1NpRh7zbU32nppJ.html |
| 13. | https://www.hindustantimes.com/india/bigg-boss-2-winner-held-for-drink-driving/story-66OH2jFHnsUf9EjUMDpW2H.html |
| 14. | http://www.kemmannu.com/index.php?action=highlights&type=5251 |
| 15. | https://daily.bhaskar.com/news/ENT-TV-caught-in-undergarments-bigg-boss-2-winner-ashutosh-kaushik-detained-for-drunken-4452520-NOR.html |
| 16. | https://www.tellychakkar.com/tv/tv-news/ashutosh-kaushik-fined-drunk-driving |
| 17. | https://indianexpress.com/article/entertainment/entertainment-others/bigg-boss-2-winner-ashutosh-charged-with-drunken-driving/ |
| 18. | http://archive.indianexpress.com/news/bigg-boss-2-winner-ashutosh-charged-with-drunken-driving/476012/ |
| 19. | https://www.news18.com/news/india/ashutosh-gets-jc-from-pti-318956.html |



Legal notice to GOOGLE INDIA/ YOUTUBE INDIA for erasure/ remove/ delink of all the irrelevant articles, videos, photos of Mr. Ashutosh Kaushik that are causing grave, irreparable injury to his privacy, dignity and reputation. ➡



Inbox

**Akshat Bajpai** 24/8/2020

Dear Sir, I am representing my Client Mr. Ashutosh Kaushik. Under instructions of

**support-in@google.com** 24/8/2020

Dear Google user, Thank you for writing in to the Grievance Officer for India. We

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRA ORDINARY CIVIL JURISDICTION

Writ Petition No. of 2021

IN THE MATTER OF:

MR. ASHUTOSH KAUSHIK

PETITIONER

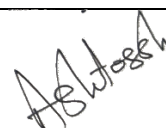
VERSUS

UNION OF INDIA AND ORS.

RESPONDENTS

COURT FEE

| | |
|----------------------|--------------------------|
| COURT FEE UIN | DLCT2229C2111Q507 |
| AMOUNT | 100 |



Petitioner

Through



Akshat Bajpai, Ishanee Sharma, Shreya Gupta (Advocates)

C-61, LGF Jangpura Extension

New Delhi-110014

Mob: 7985177435

Email: bajpaiakshat@gmail.com

Dated-22.03.2021

Place:-New Delhi

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRA ORDINARY CIVIL JURISDICTION

Writ Petition No. of 2021

IN THE MATTER OF:

MR. ASHUTOSH KAUSHIK

PETITIONER

VERSUS

UNION OF INDIA AND ORS.

RESPONDENTS

STATEMENT OF NON-FILING

This is to certify and state that the Petitioners have not filed any similar petition seeking similar reliefs before this Hon'ble Court or any other courts of the India, including the Hon'ble Supreme Court of India, on similar grounds.



Petitioner

Through



Akshat Bajpai, Ishanee Sharma, Shreya Gupta (Advocates)

C-61, LGF Jangpura Extension

New Delhi-110014

Dated-22.03.2021

Mob: 7985177435

Place:-New Delhi

Email: bajpaiakshat@gmail.com

BEFORE THE HON'BLE HIGH COURT OF DELHI

VAKALATNAMA

IN THE MATTER OF

MR. ASHUTOSH KAUSHIK

Applicant/Appellant/ Petitioner/ Complainant/Plaintiff

VERSUS

UNION OF INDIA AND ORS.

Defendant/ Respondent/ Accused

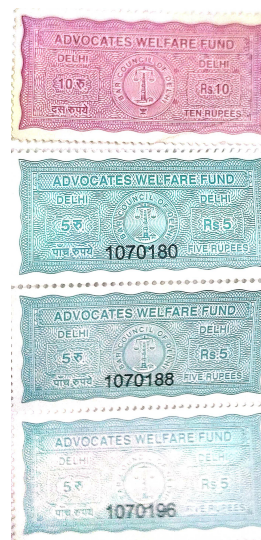
KNOW ALL to whom these presents shall come that I/ we

The above named do hereby appoint:

Akshat Bajpai (UP/2721/2016)
Ishanee Sharma (D/2642/2017)

Shreya Gupta (P/3446/2015)

Address:C-61, LGF, Jangpura
Extension New Delhi 110014
Email: bajpaiakshat@gmail.com
Ph: 7985177435



Hereinafter called the Advocate[s] to be my/our advocate[s] in the above noted case and authorize them:

- To act, appear and plead in the above noted case in this court or in any other court in which the same may be tried or heard and also in the appellate court including High Court, subject to payment of fees separately for each court by me /us.

- To sign, file, verify and present pleading, appeals, cross objection of petitions for execution, review, revision, withdraw, compromise or file other petitions of affidavits of documents as may be deem necessary or for proper execution of the said case in all its stages subject to payment of fees for each stage.
- To file and take back document, to admit &/or deny the documents of the opposite party.
- To withdraw or compromise the said case or submit to arbitration any differences, disputes that may arise touching or in any manner relation to the said case.
- To take execution proceedings.
- To deposit, draw and receive monies, cheque, cash and grant receipt thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
- To appoint and instruct any other legal practitioner or person authorizing him to exercise the power and authority hereby conferred upon the advocate[s] whatever he then may think fit to do so & sign the power of attorney or,
- And I /we the undersigned do hereby agree to ratify and confirm all acts done by the advocate[s] or their substitutes in the matter as my / our own acts as done by me /us to all intends and purposes.
- And I /we undersigned that I /we or my / our duly authorize agent[s] would appear in court on all hearings and will inform the advocate[s] for appearances when the case is called.
- And I /we undersigned do hereby agree not be hold the advocate or his substitute responsible for the result of the said case. The

adjournment cost, whatever ordered by the court shall be of the advocate, which he shall receive and retain for himself.

- And I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me /us to be paid to the advocate remaining unpaid he shall be entitled to withdraw from the proceeding of the said case, until the same is paid up. The fee settled is only for the above case and above court, for a period of three years only. I /we hereby agree that once the fee is paid I / we will not be entitled for the refund of the same in any manner what so ever. For execution of decrees and getting there satisfactions from court[s], separate fee shall be payable.

IN WITNESS WHEREOF I/ WE do here unto set my/ our hand to these presents the contents of which have been understood by me/us on this 22th day of March 2021 Accepted subject to the terms of fees.

A handwritten signature in blue ink, appearing to be 'Amit'.

ADVOCATE

A handwritten signature in black ink, appearing to be 'Rohit'.

Client

A handwritten signature in black ink, appearing to be 'Ashish'.



Gmail

PROOF OF SERVICE TO STANDING COUNSEL**OF RESPONDENT NOS. 1, 2, 3, 4** vijay kandpal <vjkdpl@gmail.com>**Service of writ petition under article 226 in the matter of Ashutosh Kaushik Vs Union of India**

1 message

vijay kandpal <vjkdpl@gmail.com>
To: mohammedmuqem@gmail.com

Mon, Mar 22, 2021 at 9:01 PM

Respected Sir,

Please find attached a copy of the Writ Petition to be filed in the Hon'ble High Court of Delhi, namely "MR. ASHUTOSH KAUSHIK VERSUS UNION OF INDIA AND ORS." wherein Union of India, Ministry of Information and Broadcasting represented by its Secretary has been made Respondent no.1, Press Council of India through its Chairman, has been made Respondent no.2, Press Information Bureau through its Principal DG has been made Respondent no.3, Electronic Media Monitoring Centre, through its Director has been made Respondent no.4 in the Writ Petition. Therefore, you are requested to kindly acknowledge the receipt of the Writ Petition at the earliest.

Regards

Vijay Kandpal

On behalf of Akshat Bajpai, Ishanee Sharma, Shreya Gupta

(Advocates)

C 61, LGF, Jangpura Extension, New Delhi-110014

**Ashutosh kaushik Vs Union of India & Ors.pdf**
3334K

**PROOF OF SERVICE TO RESPONDENT NO. 5**

vijay kandpal <vjkdpl@gmail.com>

Service of writ petition under article 226 in the matter of Ashutosh Kaushik Vs Union of India

1 message

vijay kandpal <vjkdpl@gmail.com>
To: support-in@google.com

Mon, Mar 22, 2021 at 8:58 PM

Respected Sir,

Please find attached a copy of the Writ Petition to be filed in the Hon'ble High Court of Delhi, namely "MR. ASHUTOSH KAUSHIK VERSUS UNION OF INDIA AND ORS." wherein Google LLC along with its subsidiary Google India Pvt. Ltd, through its country manager & vice president, has been made Respondent no.5 in the Writ Petition. Therefore, you are requested to kindly acknowledge the receipt of the Writ Petition at the earliest.

Regards

Vijay Kandpal

On behalf of Akshat Bajpai, Ishanee Sharma, Shreya Gupta

(Advocates)

C 61, LGF, Jangpura Extension, New Delhi-110014

 **Ashutosh kaushik Vs Union of India & Ors.pdf**
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