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BROADCASTING AND ITS EVOLUTION IN INDIA

AUTHOR'S NAME - Ashutosh Patare, LL.M, First Year.

INSTITUTION NAME - Bharti Vidyapeeth's New Law College, Pune.

ABSTRACT:

Broadcasting has played a crucial role in transforming India's cultural, social, and political environment. This research paper will give an overview of India's broadcasting growth, from the early days of radio to the digital age of television and internet streaming. Broadcasting in India is an example of flexibility and ingenuity. The All India Radio began as a government campaign in 1927 and gave way to the beginning of Indian broadcasting. It was a powerful method of conveying information, entertainment, and education to various parts and to such a large population. Radio played a significant role in India's freedom movements, and cultural programs and became a medium to reach into the rural places of the country. The introduction of Television in 1950 offered another aspect to broadcasting. The Doordarshan became the main source of visual information and entertainment, majorly because of the serial "Ramayana" and "Mahabharata". This also leads to the introduction of private broadcasters giving a large number of program options, resulting in to increase of interest of people. In India, the digital age has set a mark. Consumers can now have access to information on demand. This has happened due to the fast spread of the internet and the growing popularity of streaming services providing mixed Indian and international content.

Keywords: Broadcasting, growth, internet, information, Doordarshan.

INTRODUCTION:

The notion of broadcasting is one that was introduced in the contemporary period. People began to use broadcasting to connect with others, for entertainment, education, and learning, among other things. Some took unfair advantage of those who worked hard to develop, compose, or create a work or product by publishing another's work under their own name. if not, use their work without the permission of the owner. But it leads the owners to be aware of the situation due to these broadcasting channels which could help them to get back what is their own. This cumulatively resulted in the development of broadcasting agencies, their regulations, laws, punishments for infringement of rights, and the introduction of the rights of the broadcasting agencies as well.

MEANING:

Broadcasting: Broadcasting means, the act of transmitting visual images, etc., by radio or television.¹

Entertainment: Entertainment can be known as a mode through which people living apart come together and close and thus the social interaction and communication of people increases.

HISTORICAL BACKGROUND:

The communication system is obviously a mark since it is one of the finest in the world, in terms of meeting the demands of the people of the country. During the British administration, the electronic medium was created. The Britishers made significant contributions to the growth of TV and radio in India. After the Independence, the development of the communication system got special emphasis and increased drastically over the course.

In the ancient period, the mode of entertainment for the people was playing outdoor games and sports. In the coming decades the mode of entertainment included radio, sports, video games, watching television, plays, skits, drama, etc. whereas in modern days as a source of entertainment, we have mobile phones, televisions, computers, playing video games, listening to music and many more.

RELATION BETWEEN ENTERTAINMENT AND BROADCASTING:

All other things are also included by the agencies in their channels, but the majority of people use these for the purpose of entertainment. As, entertainment for common people generally means a mode or medium which refreshes their mind and makes them happy as well as fit, both physically and mentally. Entertainment is the key to stress for others it could be a mental relief that helps someone to overcome some kind of trauma or a situation of bad phase and bad mental condition like breakups, death of dear ones to move away from beloved ones, etc. which put a person in that drastic and a kind of devastating phase.²

Besides all the broadcasting sources newspaper business saw a healthier growth in India than in other parts of the world. This is because Indian publishers use modern technology and several papers that have their existence in all parts of the sub-continent. Every company is compelled by itself to survive in the market, to cope with the changing trends of the market. The same is

¹ Vivek D. Joshi, The Law Lexicon, Page 108, Snow White Publications Pvt Ltd.

² archive, https://archive.mu.ac.in/myweb_test/sybcom-avtg-eng.pdf, (last visited Mar. 6, 2024).

true with the broadcasting industries. India is a large market, due to its vast population and excessive demand for mobiles and telephones which relates to excessive use of these devices, resulting in subscribing to different broadcasting channels and applications.

BROADCASTING RIGHTS AND IPR:

Intellectual Property Rights and Broadcasting Rights are two separate but interlinked concepts that deal with the protection and dissemination of creative works, notably in the media and entertainment business. The broadcasting rights generally involve the following heads:

1. Copyrighted Content
2. Exclusive Rights
3. Contracts and Licensing
4. Territorial Rights.

Broadcasting in itself is a huge source of revenue but broadcasting rights also generate revenue for the content creators and distributors. The broadcasting rights allow to monetization of the content through advertising, subscription fees, or pay-per-view methods. Intellectual property rights guarantee the creative and intellectual works itself, on the other hand³, broadcasting rights handle the distribution and transmission of audiovisual information particularly. Each one of them has a role in the media and entertainment industry, making sure that the artists receive fair compensation and that there is no violation of their rights.

PROS AND CONS OF BROADCASTING:

The pros of broadcasting are that, it helps spread information, news, and knowledge and helps protect the rights of citizens by making them aware. The cons of broadcasting are that it leads to infringement of rights (Right to Privacy), can cause defamation of the person, spreading any fake or misleading news or information, and also sometimes becomes a reason for piracy and infringement of copyright.⁴

BROADCASTING COMPANIES AND ITS GOVERNANCE:

There are hundreds of broadcasting companies that enter and exit the market every day, but very few are successful in maintaining their position in the Broadcasting Industry of India.

³ WIPO, https://www.wipo.int/edocs/pubdocs/en/copyright/955/wipo_pub_955.pdf, (last visited Mar. 6, 2024).

⁴ waldenu, <https://www.waldenu.edu/online-bachelors-programs/bs-in-communication/resource/the-pros-and-cons-of-mass-media>, (last visited Mar. 6, 2024).

Some firms in India use the method of “service contract” with other overseas firms for the purpose of funding their own operations. Some examples of Indian Broadcasting Companies are Balaji Telefilms, Bennett, Coleman & Co. (The Times Of India Group), Hindustan Times, India Today, Star India, Zee Telefilms, etc.⁵

These broadcasting companies have to be regulated. For the purpose of regulation, punishment for infringement, providing them their rights, etc., the legislation introduced some laws. The laws in India kept on changing as the country was under the rule of the Invaders. The first ever law introduced in the year 1885 was the Indian Telegraph Act. With the revolution in entertainment and modernization of technology, there arose a need to establish a law related to cinematography in the year 1952, called the Cinematography Act, 1952. Further advancements in this industry led to the introduction of the Prasar Bharti Act of 1990 and the Telecom Regulatory Authority of India Act of 1997.

1. The Indian Telegraph Act, 1885⁶:

The first legal move in governing the communication system was the introduction of the Indian Telegraph Act in the year 1855. The legislation specifies the Telegraph and Radio Waves, as well as the rules that govern them. “The act grants exclusive privilege to the central government for establishing, maintaining, and working telegraphs within India provided that the central government may grant a license on such conditions and in consideration of such payments as it thinks fit to any person to establish, maintain or work a telegraph within any part of India.”⁷ In New Delhi, a new broadcasting house was constructed on Parliament Street, where the then PM Jawaharlal Nehru, gave his famous speech “Tryst with destiny” at midnight on August 14, 1947. The Department of Information and Broadcasting was renamed after the Independence.

2. The Cinematograph Act, 1952⁸:

“The Cinematograph Act, 1952 came with an aim to make provision for the certification of cinematograph films for exhibition and for regulating exhibitions by means of cinematographs.”⁹ “The act shall come into force on such date as the Central Government may,

⁵ amritt, <https://amritt.com/industries/media-entertainment/media-companies-in-india/>, (last visited Mar. 6, 2024).

⁶ The Indian Telegraph Act, 1855, No. 13 of 1885 (India)

⁷ Dr. Sukanta K. Nanda, Media Law, Pg. 280, Indian Telegraph Act, 1885, Section 4

⁸ The Cinematography Act, 1952, No. 37, Acts of Parliament, 1952 (India)

⁹ *Id.*, at 1450.

by notification in the Official Gazette, appoint.”¹⁰ The old legislation which existed since its introduction in 1918, was replaced by the Cinematograph Act, 1952. Any film (documentary or otherwise) intended for public screening needed to get a certificate from the Central Government “Board of Film Certification” or “The Censor Board”.

In the year 1952, the formation of the First Press Commission¹¹ took place under the leadership of Justice G. S. Rajadhyaksha. The commission suggested making changes in sectors like Newspaper and Periodicals, Capital Investment and Turnover, Economics of Newspapers, Advertisements, News Agencies, Newspaper Content, etc. along with establishing a state trading organization to deal with newsprint, appointing press registrars, establishing minimum basic pay for working journalists, establishing a pricing page schedule, dictating terms of employment, etc.

The year 1975 witnessed a gross misuse of the broadcasting agencies like the AIR and Television. On May 18, 1978, a Second Press Commission¹² was conducted, chaired by Justice K. N. Mathew. The recommendations made by the commission were both positive as well as negative. However, the growth of the broadcasting agencies continued. At the beginning of 1990, there was the introduction of cable television in India having huge invasions from the skies. This helped private broadcasters to broadcast various news and entertainment channels all over the country.

3. THE PRASAR BHARATI ACT, 1990¹³:

The early 90s saw a drastic change in the broadcasting field, which led to the establishment of the Prasar Bharti Act. It was established, “to provide for the establishment of a Broadcasting Corporation for India, to be known as Prasar Bharati, to define its composition, functions, and powers and to provide for matters connected therewith or incidental thereto”¹⁴. The Prasar Bharti Act had exclusive rights over 'Akashvani' and 'Doordarshan'. The Act defines Broadcasting as “The dissemination of any form of communication like signs, signals, writing, pictures, images, and sounds of all kinds by the transmission of electromagnetic waves through

¹⁰ The Cinematography Act, 1952, Section 1, No. 37, Acts of Parliament, 1952 (India)

¹¹ Rajadhyaksha, G. S., Report of the Press Commission, Pt. I, Indian Culture Discover, Learn, Immerse, Connect, <https://indianculture.gov.in/reports-proceedings/report-press-commission-pt-i>.

¹² Mathew, K. K., Report of the Second Press Commission, Vol. I (Chapter I-XII), Indian Culture Discover, Learn, Immerse, Connect, <https://indianculture.gov.in/reports-proceedings/report-second-press-commission-vol-i-chapter-i-xii>.

¹³ The Prasar Bharati (Broadcasting Corporation of India) Act, 1990, No. , Acts of Parliament, 1990 (India)

¹⁴ *Id*, at 1451

cables intended to be received by the general public either directly or indirectly through the medium of relay stations and all its grammatical variations and cognate expression shall be constructed accordingly.”¹⁵

4. The Telecom Regulatory Authority Of India Act (TRAI), 1997:

Telecom Regulatory Authority India Act is “an act to provide for the establishment of the Telecom Regulatory Authority of India and the Telecom Disputes Settlement and Appellate Tribunal to regulate the telecommunication services, adjudicate disputes, dispose of appeals and to protect the interests of service providers and consumers of the telecom sector, to promote and ensure orderly growth of the telecom sector and for matters connected therewith or incidental thereto”¹⁶. Under section 3 of the Act, TRAI was constituted as a council or company. TRAI’s headquarters are in New Delhi. Section 8 of the Act governs the processes to be followed at TRAI meetings. All issues before the TRAI are settled by a majority of the council members.

“The 2000 Amendment distributed the TRAI’s functions into-

- i. Making recommendations, either suo moto or on request from the licensor,
- ii. General administrative and regulatory functions,
- iii. Levy fees and other charges at such rates and in respect of such services as may be determined by the regulation,
- iv. Any other functions entrusted by the Central Government .”¹⁷

LAW AND PRECEDENTS:

The law and the precedents laid by the judges play a crucial role in the governance and application of the laws and issues thereto. For the issue in hand, i.e., Broadcasting is a very vast issue and a delicate one as well. And any mistake at any level by either the legislature or the judiciary will lead to the loss of the people. Some important cases relating to Broadcasting are listed below.

1. Odyssey Communications (P) Ltd. vs. Lokvidayan Sangatana(1988)

¹⁵ The Prasar Bharati (Broadcasting Corporation of India) Act, 1990, Section 2(c), Acts of Parliament, 1990 (India).

¹⁶ The Telecom Regulatory Authority of India Act, 1997, No. 24, Acts of Parliament, 1997 (India).

¹⁷ The Telecom Regulatory Authority of India Act, 1997, Section 11(1), No. 24, Acts of Parliament, 1997 (India).

The Hon'ble SC in the case held that "Freedom of expression is a preferred right which is always very zealously guarded by this Court. It can no longer be disputed that the right of a citizen to exhibit films on the Doordarshan subject to the terms and conditions to be imposed by the Doordarshan is a part of the fundamental right of freedom of expression guaranteed under [Article 19\(1\)\(a\)](#) of the Constitution of India which can be curtailed only under circumstances which are set out in clause (2) of the Constitution of India. The right is similar to the right of a citizen to publish his views through any other media such as newspaper, magazines, advertisement hoardings, etc., subject to the terms and conditions of the owners of the media."¹⁸

2. *S. Rangarajan v. P. Jagjivan Ram*

The Supreme Court held that "The motion pictures were originally considered as a form of amusement to be allowed to titillate but not to arouse. They were treated as mere entertainment and not an art or a means of expression. Movie motivates thought and action and assures a high degree of attention and retention. It makes its impact simultaneously arousing the visual and aural senses."¹⁹ "If the film is unobjectionable and cannot constitutionally be restricted under Article 19(2), freedom of expression cannot be suppressed on account of threat of demonstration and processions or threats of violence."²⁰

3. *LIC vs. Manubhai D. Shah*

The SC held that, "We end here as we began on this topic. Freedom of expression which is legitimate and constitutionally protected, cannot be held to ransom by an intolerant group of people. The fundamental freedom under Article 19(1)(a) can be reasonably restricted only for the purposes mentioned in Article 19(2) and the restriction must be justified on the anvil of necessity and not the quicksand of convenience or expediency. Open criticism of government policies and operations is not a ground for restricting expression. We must practice tolerance to the views of others. Intolerance is as dangerous to democracy as to the person himself."²¹

"This Court upheld the finding of the Bombay High Court that the serial viewed in its entirety is capable of creating a lasting impression of this message of peace and co-

¹⁸ *Odyssey Communications (P) Ltd. v. Lokvidayan Sangatana*, 1988 AIR 1642.

¹⁹ *Rangarajan v. P. Jagjivan Ram*, 1989 SCC (2) 574.

²⁰ *Id.*, at 1453.

²¹ *LIC vs. Manubhai D. Shah*, 1993 AIR 171.

existence and there is no fear of the people being obsessed, overwhelmed or carried away by scenes of violence of fanaticism shown in the film.”²²

4. *The Secretary, Ministry of Information vs. Cricket Association of Bengal & Anr. (1995)*²³

This case led to the landmark judgment of 1995 by the SC of India, here the Supreme Court observed, “What distinguishes the electronic media like the television from the print media or other media is that it has both audio and visual appeal and has a more pervasive presence. It has a greater impact on the minds of the viewers and is also more readily accessible to all including children at home. Unlike the print media, however, there is a built-in limitation on the use of electronic media because the airwaves are public property and hence are owned and controlled by the government or a Central National Authority or they are not available on account of scarcity, cost and competition.”²⁴

CONCLUSION:

Broadcasting thus for a layman might mean a process by which people get diverse educational, industrial, historical, geographical entertainment, or gaming programs conveyed via various mediums(i.e. broadcasting mediums) such as radio, TVs, computers, and so on. In the present era, the broadcasting field or business has a huge reach and if anyone enters this industry, it is one of the finest sources to gain profits, the most important condition being that the laws are not violated along with the copyrights and the broadcasting agencies work by the restrictions laid by the governments. If there is any kind of violation, the infringement leads to a variety of punishments along with fines which would result in significant financial loss. Even if the consequences are severe, we believe that the penalties and punishments are insufficient and should be raised. In the modern world, where a small child or any person is even watching some movies, serials cartoons, etc., they are not at all aware as to what is broadcasting what exactly is the process of broadcasting, and what happens when a violation of the right occurs. Thus, a need has arisen to create awareness amongst the people as to what is the process and what would be the result if what they are viewing is misused, forged, or pirated.

²² *Id.*, at 1453.

²³ *The Secretary, Ministry of Information vs. Cricket Association of Bengal & Anr.*, 1995 AIR 1236

²⁴ *Dr. Sukanta K. Nanda, Media law*, Page 293, 1995 2 S.C.C 161