The draft rules proposed by the government to curb “unlawful content” on social media that make it mandatory for intermediaries to trace the “originator” of such content have drawn strong criticism from the Opposition. The latter contend that the state is expanding the scope for surveillance of citizens.

However, a close look at the draft Information Technology (Intermediaries Guidelines) Amendment Rules, 2018, shows that the proposed changes are largely in line with developments on this front in cases before the Supreme Court in recent months.

Court’s concern
While the Centre itself has been informing the court since October about its intentions, the court has also voiced its concern over irresponsible content on social media.

In fact, in a July 17, 2018 judgment in the Tehseen S. Poonawalla case, the court gave the government a virtual carte blanche to stop/curb dissemination of “irresponsible and explosive messages on various social media platforms, which have a tendency to incite mob violence and lynching of any kind.”

For instance, Rule 3 of the draft speaks about the “due diligence” to be observed by online platforms that have over 50 lakh users.

Norms for access
It proposes the publication of rules, a privacy policy and user agreement for access to a social intermediary’s resource. Clause (1) of Rule 3 mandates that a user cannot host, display, upload, modify, publish, transmit, update or share information, for example, which is pornographic, paedophilic, racially or ethnically objectionable, invasive of another’s privacy, harms minors in anyway, etc.

Now consider this. On December 6, a Supreme Court Bench, led by Justice Madan B. Lokur, mentioned online giants Google, YouTube, Facebook, Microsoft and WhatsApp and recorded that “everybody is agreed that child pornography, rape and gangrape imagery, videos, sites, content hosting platforms need to be stamped out.”

Govt.’s draft rules to regulate social media echo SC orders
With the court voicing concern over irresponsible content, the proposed changes are in line with submissions on the issue.

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