

Lecture- 32



CHAPTER III

POWERS AND FUNCTIONS OF THE COUNCIL

Objects and functions of the Council

13. (1) The objects of the Council shall be to preserve the freedom of the Press and to maintain and improve the standards of newspapers and news agencies in India.

(2) The Council may, in furtherance of its objects, perform the following functions, namely :

(a) to help newspapers and news agencies to maintain their independence;

(b) to build up a code of conduct for newspapers, news agencies and journalists in accordance with high professional standards;

(c) to ensure on the part of newspapers, news agencies and journalists, the maintenance of high standards of public taste and foster a due sense of both the rights and responsibilities of citizenship;

(d) to encourage the growth of a sense of responsibility and public service among all those engaged in the profession of journalism;

(e) to keep under review any development likely to restrict the supply and dissemination of news of public interest and importance;

(f) to keep under review cases of assistance received by any newspaper or news agency in India from any foreign source including such cases as are referred to it by the Central Government or are brought to its notice by an individual, association of persons or any other organisation.

Provided that nothing in this clause shall preclude the Central Government from dealing with any case of assistance received by a newspaper or news agency in India from any foreign source in any other manner it thinks fit;

(g) to undertake studies of foreign newspapers, including those brought out by any embassy or

other representative in India of a foreign State, their circulation and impact. 5 of 1908

Explanation- For the purpose of this clause the expression "foreign State" has the meaning assigned to it in Section 87A of the Code of Civil Procedure, 1908;

(h) To promote a proper functional relationship among all classes of persons engaged in the production or publication of newspapers or in news agencies.

14 of 1947

Provided that nothing in this clause shall be deemed to confer on the Council any functions in regard to disputes to which the Industrial Disputes Act, 1947, applies;

(i) to concern itself with developments such as concentration of or other aspects of ownership of newspapers and news agencies which may affect the independence of the Press;

(j) to undertake such studies as may be entrusted to the Council and to express its opinion in regard to any matter referred to it by the Central Government;

(k) to do such other acts as may be incidental or conducive to the discharge of the above functions.

Power to Censure

14(1) Where, on receipt of a complaint made to it or otherwise, the Council has reason to believe that a newspaper or news agency has offended against the standards of journalistic ethics

or

public taste or that an editor or working journalist has committed any professional misconduct, the Council may, after giving the newspaper, or news agency, the editor or journalist concerned an opportunity of being heard, hold an inquiry in such manner as may be provided by regulations made under this Act and, if it is satisfied that it is necessary so to do, it may, for reasons to be recorded in writing, warn, admonish or censure the newspaper, the news agency, the editor

or

the journalist or disapprove the conduct of the editor or the journalist, as the case may be :

Provided that the Council may not take cognizance of a complaint if in the opinion of the Chairman, there is no sufficient ground for holding an inquiry.

(2) If the Council is of the opinion that it is necessary or expedient in public interest so to do, it may require any newspaper to publish therein in such manner as the Council thinks fit, any particulars relating to any inquiry under this section against a newspaper or news agency, an editor or a journalist working therein, including the name of such newspaper, news agency, editor

or journalist.

(3) Nothing in sub-section (1) shall be deemed to empower the Council to hold an inquiry into any matter in respect of which any proceeding is pending in a court of law.

(4) The decision of the Council under sub-section (1), or sub-section (2), as the case be, shall be final and shall not be questioned in a court of law.

General powers of the Council

5 of 1908

15. (1) For the purpose of performing its functions or holding any inquiry under this Act, the Council shall have the same powers throughout India as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of persons and examining them on oath;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copies thereof from any court or office;
- (e) issuing commissions for the examination of witnesses or documents; and
- (f) any other matter, which may be prescribed

(2) Nothing in sub-section (1) shall be deemed to compel any newspaper, news agency, editor or

journalist to disclose the source of any news or information published by that newspaper or received or reported by that news agency, editor or journalists.

45 of 1860

(3) Every inquiry held by the Council shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

(4) The Council may, if it considers it necessary for the purpose of carrying out its objects or for the performance of any of its functions under this Act, make such observations, as it may think fit, in any of its decisions or reports, respecting the conduct of any authority, including Government.

Levy of fees

16(1) The Council may for the purpose of performing its functions under this Act, levy such fees,

at such rates and in such manner, as may be prescribed, from registered newspapers and news agencies and different rates may be prescribed for different newspapers having regard to their circulation and other matters.

(2) Any fees payable to the Council under sub-section (1) may be recovered as an arrear of land revenue.

Payments to the Council

17. The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Council by way of grants such sums of money as the Central Government may consider necessary for the performance of the functions of the Council under this Act.

Funds of the Council

18. (1) The Council shall have its own fund; and the fees collected by it, all such sums as may, from time to time, be paid to it by the Central Government and all grants and advances made to it by any authority or person shall be credited to the Fund and all payments by the Council shall be made therefrom.

(2) All moneys belonging to the Funds shall be deposited in such banks or invested in such manner as may, subject to the approval of the Central Government, be decided by the Council.

(3) The Council may spend such sums it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the Fund of the Council.

Budget

19. The Council shall prepare, in such form and at such time each year as may be prescribed, a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure, and copies thereof shall be forwarded to the Central Government.

Annual Report

20. The Council shall prepare once every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year, and giving an account of the standards of newspapers and news agencies and factors affecting them and copies thereof, together with the statement of accounts audited in the manner prescribed under section 22 shall be forwarded to the Central Government and the Government shall cause the same to be laid before both Houses of Parliament.

Interim Reports

21. Without prejudice to the provisions of section 20, the Council may prepare at any time during the course of a year, a report giving a summary of such of its activities during the year as it considers to be of public importance and copies thereof shall be forwarded to the Central Government and the Government shall cause the same to be laid before both Houses of Parliament.

Accounts and Audit

22. The accounts of the Council shall be maintained and audited in such manner as may, in consultation with the Comptroller and Auditor-General of India, be prescribed.

CHAPTER IV

MISCELLANEOUS

Protection of action taken in good faith

23. (1) No suit or other legal proceeding shall lie against the Council or any member thereof or

any person acting under the direction of the Council in respect of anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against any newspaper in respect of the publication of any matter therein under the authority of the Council.

Members, etc., to be public servants 45 of 1980

24. Every member of the Council and every officer or other employee appointed by the Council shall be deemed to be public servant within meaning of section 21 of the Indian PenalCode.

Power to make Rules

25 (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Provided that when the Council has been established, no such rules shall be made without consulting the Council :

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

- (a) the procedure for nomination of members of the Council under clauses (a), (b) and (c) of sub section (3) of section 5;
- (b) the manner in which panels of names may be invited under sub-section (4) of section 5;
- (c) the procedure for election of a member of the Committee referred to in sub-section (2) of section 5 under sub-section (6) of that section;
- (d) the allowances or fees to be paid to the members of the Council for attending the meeting of the Council, and other conditions of service of such members under sub-sections (1) and (2) of section 7;
- (e) the appointment of the Secretary and other employees of the Council under Section 11;
- (f) the matters referred to in clause (f) of sub-section (1) of Section 15;
- (g) the rates at which fees may be levied by the Council under section 16 and the manner in which such fees may be levied;
- (h) the form in which, and the time within which, the budget and annual report are to be prepared by the Council under sections 19 and 20 respectively;
- (i) the manner in which the accounts of the Council are to be maintained and audited under section 22.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session; for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to make regulations

26. *(1) The Council may #(by notification in the official gazette) make regulations not inconsistent with this Act and the Rules made thereunder, for-

*Renumbered by Act 20 of 1983, Section 2, and the Schedule (w.e.f., 15th March 1984)

#Ins by ibid (w.e.f., 15th March, 1984)

- (a) regulating the meetings of the Council or any Committee thereof and the procedure for conducting the business there at under section 9'

- (b) specifying the terms and conditions of service of the employees, appointed by the Council, under sub-section (2) of section 11;
- (c) regulating the manner of holding any inquiry under this Act;
- (d) delegating to the Chairman or the Secretary of the Council, subject to such conditions as it may think fit to impose, any of its powers under subsection (3) of section 18;
- (e) any other matter for which provisions may be made by regulations under this Act;

Provided that the regulations made under clause (b) shall be made only with the prior approval of the Central Government.

#3(2) The Central Government shall cause every regulation made under this Act to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

#Ins by Ibid

*Amendment of Act 25 of 1867

27. In sub-section (1) of section 8C of the Press and Registration of Books Act, 1867, for the words "consisting of a Chairman and another member to be appointed by the Central Government", the words and figures" consisting of a Chairman and another member to be nominated by the Press-Council of India, established under section 4 of the Press Council Act

1978, from among its members" shall be substituted.

*(Section 27 of the Press Council Act, 1978 repealed vide the Repealing and Amending Act, 1988, Section 2, Sch.I: upon amendment of Sec. 8(c) of Press and Registration Act, 1867 to incorporate the above mentioned words and figures).