

ITEM NO.5

COURT NO.8

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 1163/2020

JATIN RANA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR ADMISSION)

Date : 02-09-2022 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MR. JUSTICE KRISHNA MURARI

For Petitioner(s) Mr. Wajeeh Shafiq, AOR
Mr. Nimish Chib, Adv.
Ramsha Shan, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

By way of this petition, under Article 32 of the Constitution of India, the petitioner has prayed for the following reliefs:-

“(a) formulate guidelines, to operate until the respondent no. 1 brings an appropriate law on the subject, thereby making it mandatory for the manufacturers as a condition precedent for selling smartphones in the territory of India to disclose on the outer packing as well as in the manual of the smartphones in English and other major regional languages that which mobile applications are pre-installed in the smartphone, what data of the user they have access to, at which place that data is being stored, by which entity that data is accessible and for what purpose that data is likely to be used.

(b) formulate further guidelines, to operate until the respondent no. 1 brings an appropriate law on the subject, thereby making it mandatory for the manufacturers of the smartphones as a condition precedent for selling smartphones, only with those pre-installed applications which are indispensable for proper functioning of the smartphones.

(c) issue a Writ of Mandamus or any other Writ, Order or Direction in the similar nature thereby directing the smartphone manufacturers / respondent companies to show as to how they have been using the data collected from Indian users and whether they can protect the data of Indian users which they are collecting.

(d) issue a Writ of Mandamus or any other appropriate Writ order or direction in the similar nature thereby directing respondent no. 3, Google to provide an update in android system through which all faulty pre-installed apps can be identified and further also provides ways to get rid of such faulty pre-installed apps;

(e) issue a Writ of Mandamus or of any other nature thereby directing respondent no. 1 and no. 2 to enquire into the privacy and data protection standards of the respondent no. 3 to no. 16 and other Chinese Smartphone companies operating in India and further carry out an exhaustive research as to how these companies have been collecting data, how it has been used and where is that collected data stored;

(f) issue a Writ of Mandamus or of any other nature thereby directing respondent no. 1 and no. 2 to set up a system as early as possible to identify the smartphones and pre-installed apps in smartphones which compromise the personal data and privacy of a user and publish the same in public interest;

(g) issue a Writ of Mandamus or of any other nature thereby directing respondent no. 1 and no. 2 to frame a mechanism through which a new app will go through to satisfy the privacy and data protection needs of our nation.

(h) pass any other order which this Hon'ble Court deems fit and appropriate in the present matter."

The reliefs which are sought are all with respect to the policy decision to be taken by the Union Government and consequently the legislation is to be made. No writ of *mandamus* can be issued for the relief(s) sought. However, it will be for the Union Government to look into the grievances voiced in the present petition.

Therefore, let the petitioner make an appropriate representation to the appropriate authority/Union of India and we are sure that the appropriate authority/Union of India shall look into the same to protect the privacy of the citizen.

With this, the present Writ Petition stands disposed of.

(R. NATARAJAN)
ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
ASSISTANT REGISTRAR