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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 13th November, 2024

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W.P.(CRL) 1563/2024

SHABANA

.....Petitioner

Through: Ms. Fozia Rahman Adv from
DHCLSC along with Mr. Sikander A.
Siddiqui, Ms. Aafreen, Mr. Kartikay
Dixit, Advs. (M:9810989707)

versus

GOVT OF NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel
(Crl.) for the State with Ms. Priyam
Agarwal & Mr. Abhinav Kumar Arya,
Advocates with SI Kunal Parkash and
Insp. Sandeep Kumar PS Bhajan Pura.
Mr. Anurag Ahluwalia CGSC Mr.
Tarveen Singh Nanda GP Ms.
Hridyanshi Sharma, Advocate for UOI
(M: 9811199806)
Mr. Arvind Datar, Sr. Advocate Mr.
Tejas Karia; Mr. Varun Pathak; Ms.
Ameesha Rana; Mr. Dhruv Bhatnagar;
Ms. Prasadhi Agrawal; Mr. Tanuj
Sharma, Advocates for Meta
Platforms Inc. (M: 8676805952).
Mr. Kapil Sibal, Senior Advocate; Mr.
Vivek Reddy, Senior Advocate; Ms.
Swati Agarwal, Mr. Shashank Mishra,
Ms. Akshi Rastogi, Ms. Shivika
Mattoo, Advocates for WhatsApp
LLC (M: 97170 98060)
Mr. Raj Shekhar Rao, Senior
Advocate for Telegram FZ-LLC
Mr. Neel Mason, Ms Ekta Sharma and



Ms. Pragya Jain, Advocates for Google LLC (M: 9461588999)

Mr. Alipak Banerjee, Mr. Sreeja Sengupta & Mr. Brijesh Ujjainwal, Advocates for Reddit Inc. (M: 9987115749)

Mr. Naveen Kumar Raheja and Mr. Anant Vijay Singh, Advocates for DUSIB (M: 7303661329)

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. Written submissions/notes have been filed by the following entities pursuant to the directions passed by this Court *vide* order dated 28th October, 2024: -
 - (i) Meta Platforms Inc.
 - (ii) WhatsApp LLC
 - (iii) Telegram FZ-LLC
 - (iv) M/s Google LLC
 - (v) Reddit Inc.
3. The submission made by Mr. Arvind Datar, learned Senior Advocate appearing for Meta Platforms Inc., is that Meta has established a Law Enforcement Online Request System (LEORS) which is a platform used by Law Enforcement Agencies to put in their request for data disclosure. According to Meta, the volume of data disclosure requests are substantial in number and over a lakh in one year, for example, in 2023.
4. In addition, it is submitted that a separate provision has been made for



making emergency requests which are also substantial in number. Data relating to the same has been set out in the written submissions. It is also urged that in case of emergency requests which are received, responses have been given by the platform in a matter of minutes for example, 18 minutes and 30 minutes in case of missing children etc.

5. The submission on behalf of the Meta, therefore, is that the platform is working diligently with the Law Enforcement Agencies to provide whatever data is in its possession. While Meta discloses Basic Subscriber Information (BSI), which includes the name of the user at the time of registration, the email-address, the telephone number and the date and time of registration, sometimes other data which is unavailable with it cannot be produced.

6. It is also submitted by learned Senior Counsel that continuous awareness programmes and training are held with Law Enforcement Agencies for sharing and educating agencies and its officials on the standard operating procedures for requesting information from the platforms.

7. Similarly, on behalf of WhatsApp LLC, Mr. Kapil Sibal, learned Senior Counsel has reiterated a similar stand of WhatsApp which he submits, also receives a substantial number of data disclosure requests and emergency requests. The stand of WhatsApp is that there are instances when information relating to terrorist activities have been disclosed by WhatsApp within 12 minutes of receiving the request. The WhatsApp platform also provides the Basic Subscriber Information available with it - though it does not have information relating to the International Mobile Equipment Identity (IMEI) of devices.

8. On behalf of Telegram, it is submitted by Mr. Rajshekar Rao, Id. Senior Counsel that a nodal officer has, in fact, been appointed to deal with even



further emergency requests and most of the times, information is provided as expeditiously as possible.

9. On behalf of Google, Mr. Neel Mason, Id. Counsel submits that even Google has a Law Enforcement Request System (LERS) which processes and deals with requests received from Law Enforcement Agencies. According to Google, it has created a dedicated platform for the Indian Government even for content removal. A PPT document has been handed over by Id. Counsel showing the manner in which the requests can be submitted in the LERS.

10. Similarly, on behalf of Reddit Inc., the submissions which have been filed show that in case of emergency involving imminent death or serious bodily harm or other emergencies, there are separate processes put in place for seeking information by Law Enforcement Agencies.

11. As on today, the current status is that most of the platforms are unanimous on the position that when there are emergency requests made by Law Enforcement Agencies, the deadline of 72 hours, which is prescribed in the Rule 3(1)(j) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, is merely treated as a maximum time and in most case of emergencies, the same are dealt with and information is provided as quickly as possible.

12. It is also not disputed by any of the platforms present before this Court that complete cooperation would have to be rendered to Law Enforcement Agencies whenever information is sought, especially when the same relates to serious crimes.

13. The Platforms express their clear intent to work with the agencies for the purpose of training and preparation of any material that may enable all the features on their platform to be utilised to the fullest possible extent.



14. On behalf of the Ministry of Home Affairs (MHA)/Ministry of Electronics and Information Technology (*MeitY*), Mr. Anurag Ahluwalia, Id. CGSC submits that one week's time would be required for the MHA which is already holding detailed stakeholders' consultation to compile its current position and the manner in which the MHA would like to coordinate with these platforms for dealing with requests from Law Enforcement Agencies, Police and other investigation agencies from across the country.

15. Considering the fact that the present petition is in the nature of *habeas corpus*, wherein the status reports filed by State reveal that despite repeated attempts the missing boy is yet not traceable, the investigation of this case is directed to be handed over to Anti Human Trafficking Unit (*AHTU*), Crime for taking diligence steps to trace the missing boy.

16. Insofar as the larger issue of cooperation between intermediaries is concerned, final opportunity is given to the MHA to place its position on record so that appropriate directions, if any, can be issued.

17. It is noticed by this Court in a large number of cases that Investigation Officers (IOs) may not be fully aware of the manner in which information can be obtained from the various platforms and sometimes precious time is lost. Accordingly, insofar as the Delhi Police is concerned, the matter may be escalated to the Commissioner of Police at the Delhi Police Headquarters (PHQ) for coordinating with the platforms and for taking steps towards preparation of a handbook that may be utilised and disseminated to all police stations, who may need urgent information from these platforms. The said handbook can include the details of the manner in which the requests have to be made and the details of the Nodal Officers of these platforms. In case any training is required, the Commissioner of Police may also call for meeting



with the platforms and hold training sessions for Police Officials, so that, in serious cases there is proper cooperation, collaboration and timely furnishing of information by the platforms to avert the commission of crime or to obtain information which may be required during the course of any investigation.

18. Mr. Sanjay Lao, learned Standing Counsel (Criminal) is directed to coordinate with the Office of the Commissioner of Police and the Id. Counsels appearing for the various platforms for holding a meeting and placing the minutes of meetings on record by the next date of hearing.

19. MHA/MeitY is directed to file their status report/affidavit at least three days by the next date of hearing.

20. The AHTU, Crime shall also file its latest status report in respect of the missing boy in this case by the next date of hearing.

21. List on 11th December, 2024.

PRATHIBA M. SINGH
JUDGE

AMIT SHARMA
JUDGE

NOVEMBER 13, 2024/bsr/bh