



**Case Brief on**

**Venkatesh Nayak vs Union of India**

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# Re-examining Digital Personal Data Processing in India

## Case Brief: Venkatesh Nayak vs Union of India

The Supreme Court issued notice in the matter of *Venkatesh Nayak vs Union of India*<sup>1</sup> and Ors. in February 2026, a public interest litigation (PIL) that challenges the constitutional validity of certain provisions of the Digital Personal Data Protection (DPDP) framework, which include the DPDP Act, 2023 (hereinafter referred to as DPDP Act) and the DPDP Rules, 2025 (hereinafter referred to as DPDP Rules).

The provisions that are sought to be struck down in the PIL include:

S. No.	Section/Rule Number	Act/Rule	What the provision states	Issue for Consideration
1	Section 17(1)(c)	DPDP Act	Exemption is granted when personal data is used to help prevent, detect, investigate, or prosecute any crime or violation of laws currently in effect in India.	Provides broad exemptions to state agencies for crime prevention
2	Section 17(2)	DPDP Act	The DPDP Act will not apply to personal data processing in the following cases: b) When processing is required for research, archiving, or statistical purposes, provided that personal data is not used to make decisions about individuals and adheres to established standards.	The exemptions for State instrumentalities in research and statistics may not align well with the DPDP Act's objectives. There are concerns about whether extensive State-led data collection should still adhere to basic data protection obligations to maintain consistency with the DPDP Act's framework.

<sup>1</sup> W.P. (C) No. 177 of 2026; see also *Geeta Seshu & Anr v Union of India*, W.P. (C) No. 275 of 2026; *The Reporters Collective Trust v. Union of India* W.P. (C) No. 211 of 2026; *Anjali Bhardwaj & Anr. v. Union of India*, W.P. (C) 286 of 2026; *National Campaign for People's Right to Information v. Union of India*, W.P. (C) 212 of 2026.

3	Section 33(1)	DPDP Act	If, after an inquiry, the Data Protection Board finds that a person has significantly violated the DPDP Act or the DPDP Rules, it may give the person an opportunity to be heard. Following this, the Board can impose a monetary penalty, as outlined in the Schedule.	Grants the Data Protection Board discretion in determining what constitutes a “significant” breach for the purpose of imposing monetary penalties.
4	Section 36	DPDP Act	Under the DPDP Act, the Central Government may require the Data Protection Board and any Data Fiduciary or intermediary under the Information Technology Act, 2000, to furnish information that the Central Government may request.	Permits the Central Government to require information from data fiduciaries or intermediaries without detailed procedural safeguards or appellate mechanisms.
5	Section 44(3)	DPDP Act	Amends Section 8(1)(j) of the Right to Information Act, 2005 (RTI Act) to exempt only information that relates to personal information.	Raises concerns regarding the scope of the amendment to Section 8(1)(j) of the RTI Act, particularly whether extending the exemption to all personal information (including non-digital data) goes beyond the DPDP Act’s stated focus on digital personal data. The amendment may also limit the

				<p>ability of authorities to undertake case-by-case public interest assessments and could create tensions with established transparency principles, including proactive disclosure obligations under the RTI framework.</p>
6	Rule 17	DPDP Rules	<p>Governs the appointment of the Chairperson and other Members of the Data Protection Board.</p> <p>The Central Government shall establish Search-cum-Selection Committees, chaired by the Cabinet Secretary and the Secretary of the Ministry of Electronics and Information Technology, to recommend candidates for the Chairperson and Members of the Board. The Central Government will then assess suitability and make appointments. The Committees' actions remain valid despite any vacancies or absences.</p>	<p>It is contended that, owing to the quasi-judicial functions of the Data Protection Board, including conducting inquiries and imposing substantial monetary penalties of up to ₹250 crore, the appointment framework should ensure adequate institutional independence. Thus, the petitioner contends that executive dominance in the appointment process may violate the doctrine of the</p>

				Separation of Powers.
7	Rule 23(2)	DPDP Rules	If the Central Government asks a Data Fiduciary or an intermediary for information that could prejudicially affect India's sovereignty, integrity, or security, the Central Government can instruct them not to share this information with the affected Data Principal or anyone else. This can only happen with prior written permission from an authorised person.	The Central Government can limit information disclosure to the data principal under certain conditions, necessitating clearer procedural safeguards and oversight. This provision highlights the need to balance national security with transparency, particularly regarding notice requirements and accountability in data protection.

## Facts and Issues of Contention

The petitioner, an RTI activist, challenges the above provisions of the DPDP framework on several constitutional grounds.

### Right to Information as a Fundamental Constitutional Guarantee

The PIL argues that the right to information and the right of citizens are integral components of the fundamental rights under Articles 19(1)(a) and 21 of the Constitution. The RTI Act, enacted in 2005, aligns with the Supreme Court's prior recognition that disclosure is the norm in public functions, while secrecy is exceptional.<sup>2</sup> The Court also

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<sup>2</sup> *State of Uttar Pradesh v. Raj Narain*, (1975) 4 SCC 428.

affirms that the right to know is crucial for participatory democracy and integral to the right to life.<sup>3</sup>

The petition further contends that when the right to privacy clashes with the public's right to know, public interest should prevail. It cites Supreme Court rulings stating that public officials or candidates cannot use privacy to escape transparency, as affirmed in the *KS Puttaswamy*<sup>4</sup> judgment, which emphasises that transparency and open governance outweigh personal privacy in public roles.

It is also argued that any restriction to Article 19(1)(a) of the Constitution stems from the reasonable restrictions guaranteed under Article 19(2) of the same. As privacy is not enumerated among these exceptions, the petitioner contends that any legislative attempt to use privacy as a blanket ban on disclosing information, such as the amendment to Section 8(1)(j) of the RTI Act, may raise concerns of being unconstitutional.

### Alleged Violation of Articles 19(1)(a) and 21 of the Constitution: Concerns surrounding Proportionality

The petitioner, in the PIL, invokes the doctrine of proportionality. The Supreme Court articulated the doctrine in its judgments in *KS Puttaswamy*<sup>5</sup> and *Anuradha Bhasin*<sup>6</sup> to determine the constitutional validity of any State action or law that restricts a citizen's fundamental rights. A government action needs a clear and legitimate goal. It should use appropriate methods and be necessary, meaning it should be the least restrictive option available. The impact of the action must be balanced, avoiding excess or arbitrariness.

It is, therefore, argued that the pre-amendment Section 8(1)(j) of the RTI Act had a mechanism where Public Information Officers (PIOs) could apply a case-by-case public interest test to assess public interest versus unwarranted invasion. The amendment, per the petitioner, may reduce the scope of such application of mind.

### Concerns regarding Arbitrariness and Violation of Article 14 of the Constitution

The petitioner also invokes Article 14 of the Constitution in the PIL, which guarantees equality before the law.

As mentioned above, the amendment to the RTI Act removes certain balancing mechanisms previously available to PIOs when evaluating requests involving personal

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<sup>3</sup> *S.P. Gupta v. Union of India*, 1981 Supp SCC 87; *Union of India v. Association for Democratic Reforms*, (2002) 5 SCC 294; *People's Union for Civil Liberties v. Union of India*, (2003) 4 SCC 399.

<sup>4</sup> *Justice K.S. Puttaswamy (Retd.) and Anr. v. Union of India and Ors.*, (2019) 1 SCC 1.

<sup>5</sup> *Justice K.S. Puttaswamy (Retd.) and Anr. v. Union of India and Ors.*, (2017) 10 SCC 1.

<sup>6</sup> *Anuradha Bhasin v. Union of India*, AIR 2020 SC 1308.

information. The petitioner submits that this change could affect the authorities' ability to balance privacy considerations with the public interest in disclosure.

Further, the PIL notes the deletion of the proviso to Section 8(1)(j) of the RTI Act, which earlier provided that information that could not be denied to Parliament or State Legislatures should not be denied to any person. According to the petitioner, removing this proviso may alter the earlier symmetry between citizens' access to information and that of legislative bodies.

The petition also highlights potential tensions between the amended exemption and the proactive disclosure obligations under Section 4(1)(b) of the RTI Act,<sup>7</sup> which require public authorities to publish key categories of information.

## Stage of Proceedings

At the time of writing this brief, the next date of hearing is March 23, 2026.

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<sup>7</sup> Section 4(1)(b) of the Right to Information Act, 2005 mandates that public authorities proactively disclose specified categories of information to promote transparency and reduce reliance on individual information requests. These disclosures include details relating to the organisation's structure and functions, powers and duties of officials, decision-making processes, applicable rules and regulations, categories of documents held, mechanisms for public consultation, and financial information, including budgetary allocations and expenditures.