

BY EMAIL & DoT website

**Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20, Ashoka Road, New Delhi - 110 001
(Data Services Cell)**

No. 813-07/LM-55/2023-DS-II

Dated: 20.12.2023

To,

All Internet Service Licensee's

Subject: CS(COMM) 816/2023 WOW MOMO FOODS PRIVATE LIMITED ASHOK KUMAR & ORS. High Court of Delhi

Kindly find the enclosed Hon'ble Delhi High Court order dated **09.11.2023** on the subject matter. (**Annexure-1**)

2. Please refer to the **para 20(v)** of the said court order in respect of blocking of **9 websites** enumerated in said para of court order.
3. Accordingly, in view of the above, all the Internet Service licensees are hereby instructed to take immediate necessary action for blocking of the said websites, as above, for compliance of the said court order.



JTO (DS-II)

Tel: 011-2303 6860

Email: dirds2-dot@nic.in

Encl:A/A

Copy to:

- (i) Sh. V.Chinnasamy, Scientist E (chinnasamy.v@meity.gov.in), Electronics Niketan, Ministry of Electronics and Information Technology (MeitY) New Delhi for kind information and with request to take action as per **Annexure-II**.
- (ii) Ankit Arvind (ankit.arvind@khaitanco.com) Plaintiff Advocate for kind information.
 - (a) Take action as per Annexure-II.
- (iii) Harish Vaidyanathan Shankar (hvscgscdhc@gmail.com) Senior Penal Counsel for kind information
- (iv) IT wing of DoT for uploading on DoT websites please.



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 816/2023, I.A. 22525/2023, I.A. 22526/2023, I.A. 22527/2023, I.A. 22528/2023, I.A. 22529/2023 & I.A. 22530/2023

WOW MOMO FOODS PRIVATE LIMITED Plaintiff
Through: Mr. Ankur Sangal, Adv.

versus

ASHOK KUMAR & ORS. Defendant
Through: None

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR


% **ORDER**
09.11.2023

CS(COMM) 816/2023


1. The plaintiff was incorporated in 2008. It claims to serve customers fresh nutritious and flavour-infused momos, dumplings, momo filled burgers (MoBurgs), Chinese and Italian cuisine, both on dine-in as well as delivery basis. It claims to have adopted the mark





in 2008, since when it is continuously using the said mark. It is also the proprietor of the following registrations, under the Trade Marks Act, 1999:

| Trade Mark | Reg. No | Class | Description | User Details | Date of Reg. |
|---|---------|-------|---|--------------|--------------|
|  | 2014802 | 30 | Spices Momo, Veg Momo, Non-Veg Momo, all kinds of Momo, Breakfast Cereals, Chinese noodles (uncooked), Chinese rice | 16-06-2008 | 27-08-2010 |





| | | | | | |
|---|---------|----|--|------------|------------|
| | | | noodles (bifun uncooked), Chinese steamed dumplings(shumai, cooked), Chinese stuffed dumplings (gyoza cooked), Dried sugared cakes of rice flour (rakugan), Farinaceous Food pastes for human consumption, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry, ices. | | |
|  | 2831210 | 30 | Spices momo, veg momo, non-veg momo, momo, Breakfast cereals, Chinese noodles (uncooked), Chinese rice noodles (bifun, uncooked), Chinese Steamed dumplings (shumai, cooked), Chinese Stuffed dumplings (gyoza, cooked), dried cooked-Rice, dried pasta, dried pieces of wheat gluten (fu. uncooked), dried sugared cakes of rice flour (rakugan), farinaceous food pastes for human Consumption, tapioca, sago, | 16-06-2008 | 22-10-2014 |



| | | | | | |
|---|---------|----|---|------------|------------|
| | | | artificial coffee; flour And preparations made from cereals, bread, pastry, Ices. | | |
|  | 3293676 | 30 | Spices momo, veg momo, non-veg momo, all kinds of momo, breakfast cereals, Chinese noodles (uncooked), Chinese rice noodles (bifun, uncooked), Chinese steamed dumplings (shumai, cooked), Chinese stuffed dumplings (gyoza, cooked), dried cooked-rice, dried pasta, dried pieces of wheat gluten (fu. Uncooked), dried sugared cakes of rice flour (rakugan), farinaceous food pastes for human consumption, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry, ices. | 16-06-2008 | 25-06-2016 |
|  | 2831211 | 35 | franchise, Retail Outlet, Retail shop for Foodstuff, Advertising, Exhibitions. | 16-06-2008 | 22-10-2014 |




| | | | | | |
|---|---------|----|--|------------|------------|
|  | 2831212 | 43 | Services for providing food and drink; Temporary Accommodation, Café restaurants, Momo shop, Catering for the provision of food and beverages, Catering in fast - food cafeterias, Catering of food and Drinks, Coffee shops, Coffee-house and snacks-bar, Momo bar & services, Fast food and non-stop Restaurant services, Fast-food restaurants, Fast-food Restaurants and snack bars. | 16-06-2008 | 22-10-2014 |
|  | 4665744 | 29 | Foods prepared from meat, fish, poultry products; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, cheese; pickles, desserts, edible oils and fats. Non-vegetarian food items, meat, fish, poultry, meat extracts, preserved and dried and cooked vegetables and fruits, and fruit items, milk and other dairy | 16-06-2008 | 21-09-2020 |



| | | | | | |
|----------|---------|----|--|------------|------------|
| | | | products, fruit juices, frozen; cabbage rolls stuffed with meat, shish kebabs; chicken burger patties; fish burger patties; soya burger patties; tofu burger patties; vegetable burger patties; veggie burger patties prepared meals consisting primarily of kebab, vegetable salads, fruit salads, fruit desserts, desserts made from milk products, grilled vegetables, grilled chicken. | | |
| WOW MOMO | 4665747 | 29 | Foods prepared from meat, fish, poultry products; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, cheese; pickles, desserts, edible oils and fats. Non-vegetarian food items, meat, fish, poultry, meat extracts, preserved and dried and cooked vegetables and fruits, and fruit items, milk and other dairy products, fruit juices, frozen; cabbage rolls | 16-06-2008 | 21-09-2020 |



| | | | | | |
|---|---------|----|---|------------|------------|
| | | | stuffed with meat, shish kebabs; chicken burger patties; fish burger patties; soya burger patties; tofu burger patties; vegetable burger patties; veggie burger patties prepared meals consisting primarily of kebab, vegetable salads, fruit salads, fruit desserts, desserts made from milk products, grilled vegetables, grilled chicken. | | |
|  | 2014803 | 43 | Services for providing food and drink; temporary accommodation, Café restaurants, momo shop, Catering for the provision of food and beverages, Catering in fast - food cafeterias, Catering of food and drinks, Coffee shops, Coffee-house and snacks-bar momo bar & services. Fast food and nonstop restaurant services. Fastfood restaurants, Fast-food restaurants and snack bars. | 16-06-2008 | 27-08-2010 |

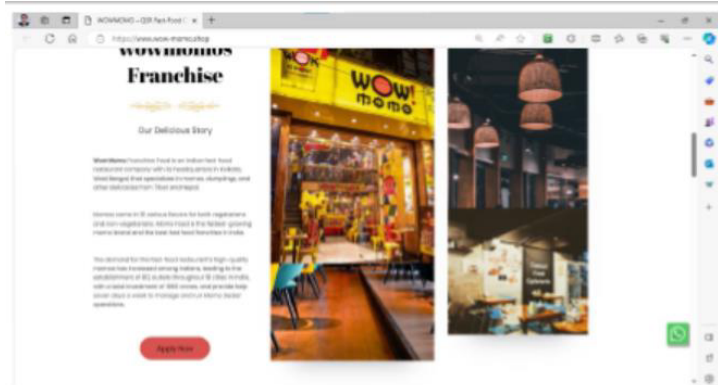
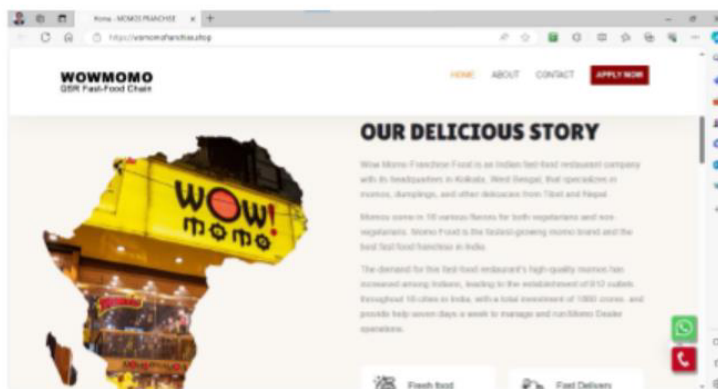
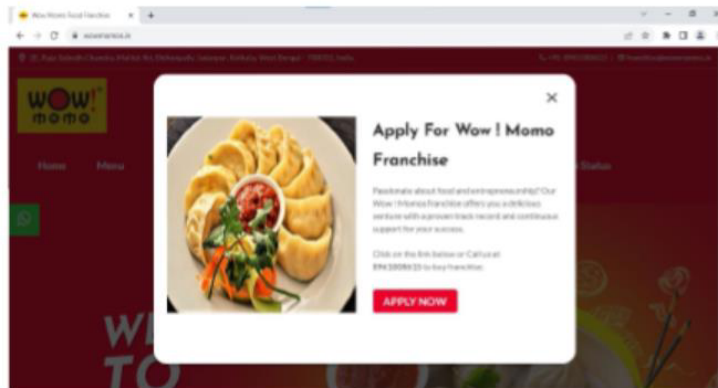


2. The plaintiff is also the registered proprietor of the domain name www.wowmomo.com, registered on 28 July 2013.

3. In order to vouchsafe its reach and reputation, the plaintiff has provided the annual sales figures of the plaintiff, under the WOW MOMO mark from 2008-09 till 2022-23. Even in the year 2022-23, the plaintiff's annual sales figures, from use of the said mark, was to the tune of ₹ 220 crores. The plaintiff also claims to have expended considerable amounts towards advertisement and promotion of the asserted WOW MOMO mark, the amount spent in 2022-23 being in the region of ₹ 7.26 crores. Para 25 of the plaint also sets out various awards and encomiums earned by the plaintiff which, according to the plaint, are an indicator of the quality of the plaintiff's products and the goodwill of its marks.

4. Defendant 1 is alleged to be an entity misrepresenting itself as authorized to offer franchises of the plaintiff to the public, in which pursuit it misuses the plaintiff's registered mark WOWMOMO .

5. Further investigation revealed similar infringing activities being carried out across the websites www.wowmomos.in , www.wowmomofranchise.org, <https://womomofranchise.shop/> , <https://www.wow-momo.shop/> and www.wowmomofoodfranchise.com. Screenshots of some such websites have been provided in para 28 of the plaint, thus:



Bangalore, Delhi, Mumbai, Chennai, Kochi, Lucknow, Pune, Hyderabad, Kolkata, Gurgaon, Coimbatore And Karapur.



6. The aforesaid websites advertise themselves to be authorised

CS(COMM) 816/2023

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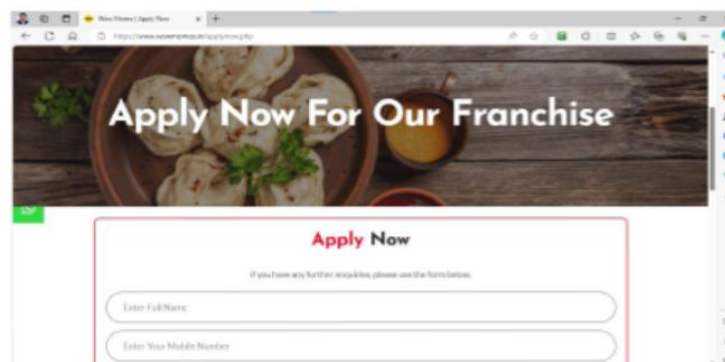
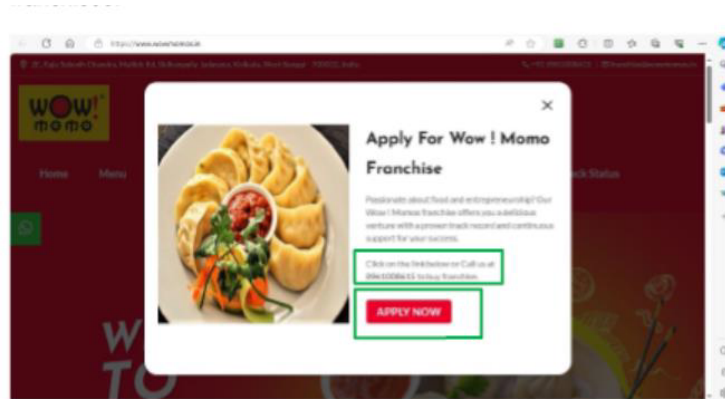
This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 18/12/2023 at 14:29:17



franchise agents of the plaintiff. Interested persons have been invited to fill up forms provided on the website or contact Defendant 1 through email at the email id franchise@wowmomo.in , support@wowofranchise.com and support@wowmomofoodfranchise.com. Once Defendant 1 is so contacted, payments are taken from such interested persons, under the garb of enlisting them as the plaintiff's franchisees. The manner in which this is done is also shown, screenshot by screenshot, in para 30 of the plaint, thus:



Enter Your Mobile Number

Enter Your E-mail Address

Select Franchise Model

Select Investment Amount

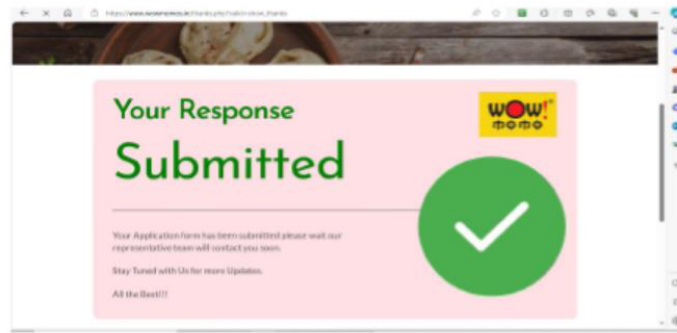
Please select state

Enter your current shop address

Enter your pincode

☐ Yes, I consent to receive occasional email with updates on services, market trends, and other information from wow-momo, that may be of value to me. I also consent to have the wow-momo representative contact me.

SUBMIT



7. Thus, it is stated that several such unknown defendants are holding themselves out as authorized franchise agents of the plaintiff, whereas the plaintiff has, in fact, no franchisees.

8. Among such infringing domain names, alleges the plaintiff, are www.wowmomo.co.in, www.wowmomomofood.co.in, www.wowmomomofoodfranchise.com, www.wowmomomofoods.co.in, www.wowmomomofood.co.in, www.wowmomomofranchise.co.in and www.wowmomomofranchise.in.

9. Inasmuch as the owners/registrants of the websites/domain names which are indulging in such infringing activities are masked, the plaintiff has impleaded the said entities under the pseudonymous appellation Ashok Kumar/John Doe as Defendant 1.

10. In order to curb the menace of such unauthorized franchise agents of the plaintiff, the present plaint has been instituted before this Court.

11. Let the plaint be registered as a suit.



12. Issue summons in the suit.

13. Written statement, accompanied by affidavit of admission and denial of the documents filed by the plaintiff be filed within 30 days with advance copy to learned counsel for the plaintiff who may file replication thereto, accompanied by affidavit of admission and denial of the documents filed by the defendant within 30 days thereof.

14. List before the learned Joint Registrar (Judicial) for completion of the pleadings, admission and denial of documents and marking of exhibits on 8 January 2024.

I.A. 22525/2023 [under Order XXXIX Rules 1 and 2 of the CPC]

15. This is an application by the plaintiff under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (CPC), seeking interlocutory injunctive reliefs.

16. The facts stated hereinabove make out a *prima facie* case of various unknown entities holding themselves out as franchise agents of the plaintiff, whereas the plaintiff disowns any connection with such entities. Through such activities, such entities are collecting money from the public. This is, therefore, an economic menace, which is needed to be curbed. Accordingly, the plaintiff is entitled to *ex parte* interlocutory injunctive reliefs.

17. As such, issue notice, returnable on 20 February 2024.

18. Notice be served on the defendants by all modes.



19. Reply, if any, be filed within four weeks with advance copy to learned Counsel for the plaintiff who may file rejoinder thereto within four weeks thereof.

20. As such, till the next date of hearing, the following interim injunctive orders are passed:

(i) There shall be an order of interim injunction restraining anyone from using, advertising, directly or indirectly dealing in

the trade mark ", or the domain names wowmomos.in,
wowmomo.co.in, wowomomofood.co.in,
wowmomofoodfranchise.com, wowmomofoods.co.in,
wowmomofood.co.in, wowmomofranchise.co.in,
wowmomofranchise.in, wowmomofranchise.org,
[//womomofranchise.shop/](http://womomofranchise.shop) and [www.wow-momo.shop/](http://www.wow-momo.shop) or any
other website or domain name which may be identical or
deceptively similar to the plaintiff's registered trademark
 and WOW! MOMO.

(ii) The owners of the websites wowmomos.in,
wowmomo.co.in, wowomomofood.co.in,
wowmomofoodfranchise.com, wowmomofoods.co.in,
wowmomofood.co.in, wowmomofranchise.co.in,
wowmomofranchise.in, wowmomofranchise.org,
[//womomofranchise.shop/](http://womomofranchise.shop), [www.wow-momo.shop/](http://www.wow-momo.shop) are directly
to immediately take down the said websites.



(iii) Defendants 2 to 5 are directed to lock/suspend access to the websites/domain names wowmomos.in, wowmomo.co.in, wowmomofood.co.in, wowmomofoodfranchise.com, wowmomofoods.co.in, wowmomofood.co.in, wowmomofranchise.co.in and wowmomofranchise.org.

(iv) Should the plaintiff come across any other website or domain name which contains the mark WOW MOMO, which is registered by any of the said Defendants 2 to 5, it is permitted to intimate Defendants 2 to 5 in that regard. On being so intimated, the concerned defendant shall immediately lock/suspend access to the said domain name. The plaintiff is directed, immediately thereupon, to file an affidavit before this Court to the said effect.

(v) Defendant 6 is directed to issue a notification to the various internet and telecom service providers registered under it to block access to the websites wowmomos.in, wowmomo.co.in, wowmomofood.co.in, wowmomofoodfranchise.com, wow.momofoods.co.in, wow.momofood.co.in, wowmomofranchise.co.in, wowmomofranchise.in and wowmomofranchise.org.

I.A. 22526/2023 [under Section 12A of the Commercial Courts Act, 2015]

21. In the facts of the case, the plaintiff is exempted from the requirement of pre-institution mediation proceedings, *inter alia*, as the



infringing defendants are unknown entities. The application stands allowed accordingly.

I.A. 22527/2023 [under Order XI Rule 1(4) of the CPC]

22. By this application, the plaintiff seeks permission to file additional documents.

23. The plaintiff is permitted to place additional documents on record in accordance with Order XI Rule 1(4) of the Code of Civil Procedure, 1908 (CPC) as amended by the Commercial Courts Act within 30 days from today.

24. The application stands disposed of accordingly.

I.A. 22528/2023 [Section 149]

25. Court fees, if not already deposited, may be deposited within three weeks.

I.A. 22529/2023 [under Section 151 of the CPC]

26. Subject to the plaintiff filing legible copies of any dim or illegible documents on which it may seek to place reliance within four weeks from today, exemption is granted for the present.

27. The application is disposed of.

I.A. 22530/2023 [seeking permission to place compact disk on record]



28. Permission to place compact disk on record is granted. The application is allowed accordingly.

C. HARI SHANKAR, J.

NOVEMBER 9, 2023

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Click here to check corrigendum, if any

IN THE HIGH COURT OF DELHI AT NEW DELHI
(COMMERCIAL JURISDICTION)
CS (COMM) NO. ____ OF 2023
Commercial Code: 50000

IN THE MATTER OF:

WOW MOMO FOODS PRIVATE LIMITED ...PLAINTIFF

VERSUS

ASHOK KUMAR/ JOHN DOE & ORS ...DEFENDANTS

MEMO OF PARTIES

IN THE MATTER OF:

WOW MOMO FOODS PRIVATE LIMITED

29A/2R/1 RAJA S.C. MULLICK ROAD

24 SHYAMA PALLY GROUND FLOOR

JADAVPUR, KOLKATA – 700 032

EMAIL- binodhomagai@wowmomo.co.in ...PLAINTIFF

VERSUS

1. ASHOK KUMAR/ JOHN DOE ...DEFENDANT NO. 1

Email- franchise@wowmomos.in

support@wowmomoindia.in

support@wow-momo.shop

franchise@wowmomofoodfranchise.com

2. GODADDY.COM, LLC

2155 EAST GODADDY WAY

TEMPE, AZ 85284

UNITED STATES OF AMERICA

EMAIL: HQ@GODADDY.COM , grievanceofficer@godaddy.com

PH.: 040-67607600

...DEFENDANT NO. 2

3. HOSTINGER INTERNATIONAL, LTD

JONAVOS G. 60C,

KAUNAS, KAUNAS COUNTY

LITHUANIA

EMAIL: ABUSE@HOSTINGER.COM

PH.: +37064503378

...DEFENDANT NO. 3

4. HOSTING CONCEPTS B.V. D/B/A OPENPROVIDER

WILLEM BUYTEWECHSTRAAT 40 ROTTERDAM,

ZH 3024 BN, NETHERLANDS

EMAIL: SHIWALE@OPENPROVIDER.NL

PH.: 1-703-948-3200

Also at:

3rd FLOOR, PRUDENTIAL BUILDING PRUDENTIAL IT PARK,

CENTRAL AVENUE POWAI MUMBAI CITY

MAHARASHTRA 400076

...DEFENDANT NO. 4

EMAIL: SHIWALE@OPENPROVIDER.NL

5. ENDURANCE DIGITAL DOMAIN TECHNOLOGY LLP

UNIT NO.501,5TH FLOOR, IT BUILDING 3,

NESCO IT PARK, NESCO COMPLEX,

WESTERN EXPRESS HIGHWAY, GOREGAON EAST,

MUMBAI, MAHARASHTRA – 400063

...DEFENDANT NO. 5

EMAIL: compliance@edtpl.in

, Grievance-officer@publicdomainregistry.com

6. DEPARTMENT OF TELECOMMUNICATION
THROUGH SECRETARY,
MINISTRY OF COMMUNICATIONS AND IT,
20, SANCHAR BHAWAN ASHOKA ROAD,
NEW DELHI – 110001

EMAIL: SECY-DOT@NIC.IN, DIRDS2-DOT@NIC.IN

...DEFENDANT NO. 6



[ANKUR SANGAL]

D / 2202 / 2010

KHAITAN & CO

ADVOCATES FOR THE PLAINTIFF
MAX TOWERS, 7TH & 8TH FLOORS,
SECTOR 16B, NOIDA
UTTAR PRADESH - 201301

ankur.sangal@khaitanco.com

Mobile: 9873489278

NEW DELHI

DATED: 8.11.2023

Annexure II

Subject: Action requested to be taken by MEITY and Plaintiff for effective removal of content for viewing by public at large within India as per the said orders of Hon'ble Court.

It is observed that a number of orders of Hon'ble Court are issued for blocking of websites every month. There are around more than 2700 ISPs in India and these ISPs are connected among themselves in a mesh network. DOT is instructing each of the ISPs through emails/through its website for blocking of the websites as ordered by the Hon'ble Courts. Ensuring compliance of the orders by each of the ISPs is a time-consuming and complex task especially in view of multiplicity of orders of Hon'ble Courts, multiplicity of websites to be blocked and multiplicity of ISPs.

2. Allocation of Business Rules inter-alia states thus:-

'Policy matters relating to information technology; Electronics; and Internet (all matters other than licensing of Internet Service Provider)'.

3. In view of above and in order to ensure effective removal by content for viewing by public at large, the plaintiff is requested to do a trace route of the web server hosting the said website. In case the web server happens to be in India, the plaintiff may inform the same to Meity who may direct the owner of such web server to stop transmission of content as per IT Act and as directed by the Hon'ble Court so that the content would be blocked from the source itself and the exercise of blocking by 2700 ISPs would not be required.

4. In case such server is located abroad i.e. outside India then access to such URL/website can be blocked through the international internet gateways which are much less in number. This would result in timely and effectively removal of undesirable content for viewing by public at large as is the requirement as per the orders of Hon'ble Court.