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## **DELHI UNIVERSITY PHOTOCOPY CASE: ANALYSIS**

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### **Abstract**

*In 2012, a significant dispute arose between publishers and students in India when foreign publishers pursued Delhi University for copying materials on campus without authorization. In 2016, the Delhi judges determined that the university's actions were not considered theft, as the creation of course packs did not violate any laws. The publishers responded by challenging the decision, but this time they were unsuccessful in court. This decision demonstrates the profound connection between copyright and education, not only at one school but across all schools in India. Nevertheless, the publishers withdrew the lawsuit in March 2017 and issued a public statement announcing their decision not to prosecute the case and their intention to forgo submitting an appeal to the Supreme Court. The publishers announced their intention to establish a more collaborative relationship with academic institutions, instructors, and students in order to facilitate equitable access to knowledge and address their needs. The Indian Reprographic Rights Organization (IRRO) submitted a Special Leave Petition (SLP) to the Supreme Court in April 2017, contesting the division bench's decision. On May 9, 2017, the Supreme Court issued an order that declined to review the impugned judgment and dismissed the SLP.*

*The judgments in this case have a significant impact on not only the University of Delhi but also all educational institutions in India, as they connect the right to education with the copyright law.*

*The case investigated the unique treatment of schooling when it comes to copying materials such as books. Indian law does not specifically address the issue of discreetly copying items for educational purposes. However, this could potentially fall under section 52(1)(a)(i)'s clause, which permits private study, or section 52(1)(i), which allows teachers and students to copy materials for classwork. Consequently, it is imperative to strike a balance between safeguarding individuals' work and providing educational resources.*

**Keywords:** Fair Use, Fair Dealing, Right to Education, Authors' Right.

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## **Fact of the Case**

The first interpretation of section 52(1)(i) was brought up in the case of *The Chancellor, Masters and Scholars of the University of Oxford v. Rameshwari Photocopy Services*.<sup>2</sup> The lawsuit for a permanent injunction was filed by five reputable publishers, including Oxford University Press, Cambridge University Press, who are based in the United Kingdom; Cambridge University Press India Pvt. Ltd. As well as Taylor & Francis, United Kingdom, and Taylor and Francis Books India Private Limited. Ltd. The plaintiffs filed a petition for an injunction against the defendants, Rameshwari Photocopy Service (defendant no. 1) and the University of Delhi (defendant no. 2), requesting that they be prohibited from photocopying and distributing their publications on a large scale, circulating them, or selling unauthorized compilations of substantial extracts (ranging in length from six to sixty-five pages) from their publications that they have assembled into course packs of course materials for sale. Defendants No. 3 and No. 4 were pled guilty as the Association of Students for Equitable Access to Knowledge (ASEAK) and the Society for Promoting Educational Access and Knowledge (SPEAK), respectively.

## **Arguments Presented**

It was asserted by the plaintiffs that defendant no. 2 had institutionalized infringement by giving a license that allowed for the reproduction and selling of course materials. Specifically, this was the reason that the plaintiffs presented. The plaintiffs' goal is not to prevent students from photocopying; rather, they seek to put an end to the practice of systematic photocopying. This is the purpose of the plaintiffs. Since neither a teacher nor a student duplicated the work while they were participating in the teaching process, it is not conceivable to mount a defense under section 52(1)(i) since doing so would violate the provisions of the statute. Through the sale of the course packs, the defendants were able to create the circumstance in which they would be in the same position as the plaintiffs. In addition, the plaintiff asserted that defendant number two should have obtained a license from the Indian Reprographic Rights Organization (IRRO), and that the payments that the students would have been had to pay would not have been much more than those that defendant number one had previously spent.

In front of the court, defendant number one contended that the acts that it has been carried out were within the scope of fair use in accordance with sections 52(1)(a) and 52(1)(h) of the act. This is because the course packs are used for both research and teaching purposes in the academic world. On the other hand, defendant no. 1 is not participating in any form of commercial exploitation of the

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<sup>2</sup> The Chancellor, Masters and Scholars of the University of Oxford v. Rameshwari Photocopy Services, 2016 SCC OnLine Del 5128.

works that are protected by copyright, even though they are providing photocopies at a modest charge of forty rupees per page to pay their expenditures. One further thing to take into consideration is the fact that the library only possesses a limited number of books that are original. Because of this, members of the faculty have gathered a broad variety of copies of books, papers, and journals, which they photocopy to prevent any harm to the original works. This is done to ensure that the texts are preserved in their original form.<sup>3</sup>

The second defendant argued that education has been an honorable exception to copyright regulations for a very long period, and that this is recognized by sections 52(1)(a) and 52(1)(i) of the acts. For the purposes of doing research and instructing, the vast majority of educational institutions all over the globe permit students to copy a certain number of pages from any book that is protected by intellectual property rights. A test of fair dealing is included in section 52(1)(a), in contrast to section 52(1)(i), which does not include such a test since it is not included. It is thus immaterial whether just a portion of the book is photocopied or if the whole book is duplicated. This is because of the fact that this is already the case. In the library, both the teacher and the student have the opportunity to read the books that are outlined in the course curriculum. They also have the option of borrowing the books and making copies of the pages that are pertinent to the course. Given the high cost of acquiring books and the fact that books are sometimes unavailable or out of print, photocopying is a crucial service for educational purposes. This is because books are frequently out of print or unavailable. It was also stated that, even if the problem is linked to copyright law, it must be considered in light of the right to knowledge, and since the Constitution cites the right to education both as a Fundamental Right and as a Directive Principle of State Policy. This was added to the argument that the matter must be addressed using the right to information. It has been brought to the attention of the University of Delhi that the teachers are unable to bring a photocopier with them, and that there is not sufficient room, money, or personnel on campus to enable photocopying to take place at the library.<sup>4</sup>

The third defendant argued that the provisions of section 52(1)(i) cannot be restricted to classroom education and that the beginning of the academic semester marks the beginning of teaching inside the classroom. If the educational establishment is authorized to develop the course packets, it may also do so via the assistance of an agency.

## **Judgement**

The court has said that there is only one question that has to be resolved, and that is whether or not

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<sup>3</sup> *Ibid.* para. 4.

<sup>4</sup> *Ibid.* para. 5.

the fact that course packs are created constitutes an infringement of copyright. The court stated that the scope cannot be limited or increased by applying section 52(1)(a) to the circumstance after the legislature has expressly granted exceptions for the field of education under sections 52(1)(h), 52(1)(i), and 52(1)(j). This is a legal matter that does not require a trial to be held.<sup>5</sup>

Regarding subsection 52(1)(h), the court concluded that it did not apply to the circumstances of this case. This was because the course packs in issue were composed solely of the creative works of the plaintiff. The publication must be constituted mostly of items that are not protected by copyright for section 52(1)(h) to be relevant. Additionally, the publication must exist in the first place.<sup>6</sup> The court also decided whether or not course packages are considered to be publications. The court referred to the third part of the act's definition of "publication," which specifies that publishing is defined as "making a work available to the public by issue of copies or by communicating the work to the public." The court came to the conclusion that the term "publication" in section 3 relates to the act of preparing and issuing a book or journal for sale to the public and does not pertain to the making of photocopies of previously published work after interpreting section 3 in conjunction with sections 4, 5, and 14(a)(ii).<sup>7</sup> The court went on to explain that publishing, as opposed to "reproduction," as defined in section 52(1)(i), is the phrase used in section 52(1)(h). Publication is the act of making anything accessible to the public for the very first time, as well as via reprints or further editions. Replication, on the other hand, is the process of reproducing something for the restricted use of a teacher or students.

With regards to the connection between § 52(1)(i) and the circumstances of this particular instance, the court made the following observation that<sup>8</sup> within the scope and ambit of section 52(1)(i), it is not possible to place any restrictions. Education has been institutionalized for a very long time, both at the school and post-school levels, and there is little credit given to individual instructors for the delivery of teaching. This is even though the country historically adhered to the Guru-Shishya parampara, which is traditionally known as the teacher-disciple tradition. Since neither the teacher nor the student existed in society at the time that it was incorporated in the legislation, there is no foundation for reading it to suggest that it provides for a particular instructor and student. Neither of these individuals exist in society today. Therefore, the fact that teachers now communicate information only as members of an institution does not exonerate the institution of its need to comply with section 52(1)(i), nor does the fact that the institution photocopies any copyrighted

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<sup>5</sup> *Ibid.*, para. 22.

<sup>6</sup> *Ibid.*, para. 45.

<sup>7</sup> *Ibid.*, para. 47, 48.

<sup>8</sup> *Ibid.*, para. 55.

content on behalf of its instructors satisfy this requirement.

The court provided an explanation of the difference between the term's "lecture" and "instruction." Despite the fact that the act's section 2(n) defines "lecture" as a document that includes "address, speech, and sermon," the court pointed out that the Act does not define "instruction." If the legislature's intention was to restrict the reproduction of copyrighted works during a lecture in accordance with section 52(1)(i), then the word "lecture," as defined by the act, would have been the phrase that would have been used. As a result, the word "instruction" needs to be defined in a manner that is distinct from that of "lecture." The court stated that an "instruction" would be defined as "something a teacher tells the student to do in the course of teaching or detailed information which a teacher gives to a student or pupil to acquire knowledge of what the student or pupil has approached the teacher to learn," in reference to a teacher. This definition was made in reference to the fact that a teacher is the provider of the instruction.<sup>9</sup>

In addition, the court discussed the problems of when instruction is delivered and when it is ended. Specifically, it made the following observation that during instruction would include reproduction of any work while the process of imparting instruction by the teacher and receiving instruction by the pupil continues, that is, throughout the entirety of the academic session during which the student is under the tutelage of the teacher. In addition, the act of giving and receiving instruction is not limited to the human connection that takes place between a teacher and a pupil on a daily basis. Consequently, a teacher would be in conformity with section 52(1)(i) of the Act if they duplicated any copyrighted content to instruct pupils in line with the curriculum over the duration of the academic year.<sup>10</sup>

It was also observed by the court that enormous books may now be photocopied at a low cost as a result of technical improvements. While they are seated in the library, students are no longer expected to copy pages from books and other materials. Because every student in today's world has a mobile phone that is equipped with a camera, they are able to snap photographs of the required pages and then print them out. The court came to the conclusion that an action carried out via a certain mode would not be regarded as illegal if the activity had the same effect regardless of the mode's difference.<sup>11</sup>

As a result of the court's decision, the complaint was dismissed since the defendants' actions did not constitute an infringement. It makes no difference whether defendant no. 2 purchases the photocopy

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<sup>9</sup> *Ibid.*, para. 60.

<sup>10</sup> *Ibid.*, para. 72.

<sup>11</sup> *Ibid.*, paras. 76, 79.

machine directly, whether they let the students photocopy themselves, or if they delegate the task of photocopying to another individual.<sup>12</sup>

Following the filing of an appeal that challenged the judgment of the single judge, the division bench gave its decision in the case of *The Chancellor, Masters and Scholars of University of Oxford v. Rameshwari Photocopy Services*.<sup>13</sup> Intervention petitions were made to the division bench by the Indian Reprographic Rights Organization (IRRO), the Association of Publishers in India (API), and the Federation of Indian Publishers (FIP). The court allowed all of these motions.

The court inquired as to whether the privilege granted by section 52(1)(i) is unconstrained and unimpeded by the need that it be a fair use, as well as the extent to which the term of “by a teacher or pupil in the course of instruction” is expansive.<sup>14</sup> It was established, after conducting an analysis of the four course packs, that the average cost of the books from which certain pages were photocopied was Rs. 2542 (that is, two thousand five hundred forty-two only), and the average percentage of books that were copied was 8.81%. This was one of the findings of the analysis.

The court made the comment that the outcome would be similar regardless of whether the word “course” is read as a verb or a noun. This was done in line with the logic that was offered by the respondents. This is because the result will include the whole of the academic process that takes place over the course of a semester.<sup>15</sup>

The court made the observation that justice must be provided in every activity, even those that do not specifically allow for fair use. This is particularly true in circumstances when the labor of another person is involved. All actions must be fair. Therefore, the general fair use concept, rather than the four criteria that determine fair use judgment, would be translated into this clause. This is due to the fact that the legislature has not specified fair use as a limiting factor under section 52(1)(i).<sup>16</sup> It will rely on the use that is intended to determine whether or not it is deemed fair use.<sup>17</sup> Both qualitative and quantitative material usage would be unaffected by the fact that the “extent justified by the purpose of education” standard will be used to determine fairness in use for educational purposes. Additionally, a significant amount of content that is protected by intellectual property rights could be utilized to guarantee that students comprehend the content that is being

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<sup>12</sup> *Ibid.*, para 86.

<sup>13</sup> 2016 SCC OnLine Del 6229.

<sup>14</sup> *Ibid.* para. 17.

<sup>15</sup> *Ibid.*, para. 39.

<sup>16</sup> *Ibid.*, para. 31.

<sup>17</sup> *Ibid.*, para. 32.

utilized in the classroom.<sup>18</sup> The court went on to note that the provision does not define where information may be conveyed; it will probably encompass in-person education conducted in a formal setting, as well as communication between students and professors, as well as communication between students and themselves. Regarding the impact on the market, the court said that there would be no adverse effect since students would choose to go to the library rather than buy all of the reference books on a certain topic. This would avoid the need for the market to be negatively affected. Rather than shrinking, the market for works that are protected by intellectual property rights will grow as a result of increasing knowledge.<sup>19</sup>

The interpretation of the distinction between “publication” and “reproduction” that was given by the single judge was not accepted by the division bench. It was brought to their attention that publications always have a profit-making component, even if they are not meant for public consumption or are not freely available to all members of the community. If a teacher were to copy a work with the intention of using it in the classroom, there would never be any aspects of profit involved in the process. Putting out an argument that the teacher would be prevented from generating further copies is not something that can be done under any circumstances.<sup>20</sup>

A complaint was filed by an intermediary, and the court responded by stating that it is not required for instructors and pupils to obtain photocopying equipment in order to reproduce works that are protected by intellectual property rights while they are in the classroom. Even in the event if it were feasible to find a location where a photocopying machine with a guy behind it could be found, the activity’s essential notion would not be changed in any way. The first respondent in this circumstance is not generating any other form of profit.<sup>21</sup> Due to the fact that the university’s participation comes to an end when it determines what the content of the course will be, it was also stated that the school does not allow photocopying. After that point, the instructors of the class would be the ones to be responsible for assigning the readings, which would include the works that were protected by copyright.<sup>22</sup>

Additionally, the court did not agree with the position that was provided by the single judge about the application of section 52(1)(a) to the facts of the case. This was because the explanation did not take into account the provision’s requirement of fair dealing, which was the reason why this occurred. It was essential to use section 52(1)(i) rather than section 52(1)(a) in order to evaluate

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<sup>18</sup> *Ibid.*, para. 33.

<sup>19</sup> *Ibid.*, para. 36.

<sup>20</sup> *Ibid.*, para. 57.

<sup>21</sup> *Ibid.*, para. 60.

<sup>22</sup> *Ibid.*, para. 61

replication since the course materials were utilized throughout the teaching process.<sup>23</sup>

After the court overruled the ruling of the single judge and decided that there was a factual question that could be tried, the claim was revived for a factual trial before the single judge. On the other hand, the plaintiffs and appellants decided to withdraw the complaint and make a public notice on March 9, 2017, declaring their intention to dismiss the case and not pursue an appeal with the Supreme Court.<sup>24</sup> They made the announcement in the public statement that they wanted to work more closely with educational institutions, teachers, and students in order to fulfill the standards that they had set down and to ensure that everyone had equal access to knowledge.

In a Special Leave Petition that was presented to the Supreme Court in April 2017, the Indian Revenue and Revenue Organization (IRRO) contested the decision of the Division Bench of the Delhi High Court. The Supreme Court issued a decision on May 9, 2017, rejecting the SLP and refusing to interfere with the disputed judgment. However, the court did not intervene with the judgment.

### **Analysis and Conclusion**

In this instance, the decisions that were made connect the copyright statute to the right to education that is provided by the Indian Constitution. This has implications not just for the University of Delhi but also for all educational institutions in India. Nevertheless, there are problems with the rulings, and some people have criticized them for failing to take into consideration the interests of higher education in India and the publishing industry. The rulings have been praised as historic and momentous decisions that support the right to education by granting access to educational copyrighted works.<sup>25</sup> However, there are issues with the rulings. Furthermore, it was asserted that because it eliminates all of the academic publishers' incentives, it represents the incapacity of Indian courts to combine legal outcomes with robust economic models. This was despite the fact that the court did not address the fact that the actions of the defendants had an economic impact on the publishing sector. In this particular instance, the court made the observation that students are not the intended market for the publisher since they would not have gone to the trouble of acquiring the full set of books. By following this line of logic, the argument presented by the publisher is completely ignored. The institution, rather than the student, presented itself as the possible customer in this scenario. The court acknowledged that the publishers' intention was not to force the students to buy

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<sup>23</sup> *Ibid.* para. 75.

<sup>24</sup> Available at: <http://fdslive.oup.com/asiaed/News%20Items%20and%20Images/Joint%20Public%20Statement.pdf>. (Visited on June 15, 2024).

<sup>25</sup> Aneesha Mathur, "Simply put: What a photocopy shop's HC victory over publishers means for Copyright" *The Indian Express*, Nov. 4, 2016.

their books, and it agreed with this assessment. For the purpose of allowing the students to xerox the required information, the publishers demanded that the institution get a license.<sup>26</sup> They were of the opinion that getting an IRRO license would be sufficient to fix the whole problem. In the process of recasting the agreement between the publisher and the institution as one against the students, the court chose to disregard the financial effect that the arrangement would have on the publishers.

Considering that extensive photocopying would be authorized, it is quite doubtful that educational institutions such as Delhi University and others would spend money on the purchase of these books. For the sake of achieving their educational goals, students are granted permission to photocopy relevant portions of academic texts as soon as the institution obtains a copy of the textbook. This is a hazy and unsatisfactory standard. This is beneficial not only to the students but also to the education institution. There will be a reduction in the amount that the institution is required to pay. In the other direction, the publishers miss out on a considerable sum of money. As a result of the court's decision to permit extensive photocopying of academic literature, the institution is no longer required to acquire enough volumes or secure a license from each of the copyright organizations.<sup>27</sup>

It was further suggested that even if the publishers might keep putting out Indian works, they wouldn't be motivated to put in more money and resources.<sup>28</sup> In opposition to this viewpoint, it was stated that photocopying has been unchecked in Indian educational institutions for more than thirty years and that this business would not be in existence today if photocopying had a negative impact on publisher profits. The publishers are attempting to increase their profits via this method.

In this specific scenario, the "nature of the work" component of the standard fair use test is an essential factor to consider; nonetheless, the court did not accept this component. Because so many people purchase books and movie tickets for the purpose of amusement, the owners of these copyrighted works are unlikely to notice when well-known books and films are used in classrooms for the goal of teaching and education. This is because most people acquire these things for entertainment reasons. Considering this, there would be no infringement of their copyright, and their primary market would continue to be unaffected. On the other hand, academic textbooks are aimed at specific readership because they include specialist subject matter and language that is technical in nature. Therefore, the only people who may benefit from them are those who are actively involved in doing research in specialist topics. If readers who read the magazine, which is mostly composed

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<sup>26</sup>Shamnad Basheer, "Copyright as exception" *The Indian Express*, October 19, 2016.

<sup>27</sup> Ananth Padmanabhan, "Reading it wrong" *The Indian Express*, October 14, 2016.

<sup>28</sup> Prashant Reddy, "Counterinterview: The outcome of the DU Photocopy Case isn't necessarily good news for Higher Academia in India" available at: <https://spicyip.com/2016/09/counterinterview-the-outcome-of-the-du-photocopy-shop-isnt-necessarily-good-news-forhigher-academia-in-india.html>. (Visited on June 15, 2024).

of students and professors, were permitted to photocopy the sections that they need, the market for academic publishers would suffer as a consequence of this. The reasoning that the court has used in this specific case makes it quite evident that it has just a surface-level understanding of the economics that is significant.

Even after the institution had secured a license, the students would have been allowed to take use of this benefit. In addition to receiving reimbursement for their investment, the publishers would have been rewarded. For ensuring that the students have access to the course materials, the educational establishment would have been obligated to make payment in this scenario.

The University emerges victorious since it was successful in securing a scholarship for the students. Additionally, in addition to the loss that has been incurred by publishers, this verdict has also had a severe effect on the rights of copyright owners.

It was the single judge who raised the question of whether the manufacturing of course packs constituted an infringement of copyright to the notice of the court in a way that was proper. Having said that, the court has made it clear that this is a legal problem rather than a factual one. The court was of the opinion that if the activities taken by the university were within the parameters of section 52(1)(i), then there was no form of infringement. However, if the university's acts did not fall within those parameters, then the plaintiff would be granted an injunction. As a result of this knowledge, the judgment is called into question since the court had previously concluded that the acts of the institution would not take place. The fact that this is the case suggests that the court saw section 52(1)(i) as a general clause that does not differentiate between copying all a book or a certain portion of it, provided that the reproduction of the copyrighted works occurs during instruction. Taking into consideration the interpretation of the sentence, this interpretation was presented. Additionally, to add insult to injury, determining whether a reproduction is taking place during instruction is a fundamentally factual matter that necessitates the evaluation of the curriculum. Following the ruling that was rendered by the lone judge, there were a few problems that remained unsolved. An inquiry was not carried out to determine whether a substantial quantity of the plaintiffs' works was being duplicated, nor was there any investigation undertaken to determine whether or not the course packs were being sold for the purpose of monetary benefit.

Because of the decision made by the division bench, photocopying was limited to just those items that were necessary for the purpose of the course of instruction. This was done to prevent students from exceeding the permissible limit that was established under section 52(1)(i). Without providing any details on the manner in which the issue is to be decided, the court remanded the case to the

single judge. The court did, however, specifically restrict the utilization to accomplish the aim, and as a result, it fits somewhere within the boundaries of distributive justice.<sup>29</sup>

Additionally, it is not yet clear whether the act of photocopying a whole book would be considered a practice that is permitted. As a result of the fact that, on average, 10% of the work from various books was photocopied, a number of authors have asserted that the rulings do not permit photocopying of the entire book.<sup>30</sup> However, there are some who have argued that the court did allow photocopying of the entire work because, in this particular instance, a full chapter was taken from an edited book, which is a copyrighted work in and of itself, and a book would follow the same reasoning.<sup>31</sup>

Other criticisms that were leveled against both rulings included the fact that the plaintiffs never appeared before the court and that the court did not discuss the conflict between section 32A and section 52(1)(i) regarding the reason why the law allows royalty-free use for educational purposes despite the fact that it also contains a provision that requires licensing.<sup>32</sup> It is vital to strike a healthy balance between the two sections, and if the division bench decides to construe section 52(1)(i) in such a way that it allows for the unlimited copying of copyrighted materials during teaching, then section 32A will become outdated.<sup>33</sup> It was proposed that Article 52(1)(i) be interpreted in a limited manner in order to limit its applicability to the use of copyrighted materials during classroom instruction; photocopying outside of the classroom should not be allowed. 397) It was also said that as the publishing industry and libraries continue to evolve, the distribution of educational materials will also continue to alter. This will bring about new issues for educational institutions, as it will bring about new opportunities.<sup>34</sup>

One author, in a critique of the ruling, said that the court ought to have encouraged the growth of libraries by imposing a restriction on the number of books that may be accessed via digitally protected e-kiosks in institutional libraries that are used for non-commercial purposes. This would

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<sup>29</sup> Lawrence Liang, "Paternal and Defiant Access: Copyright and the Politics of Access to Knowledge in the Delhi University Photocopy Case", 1 Indian Law Review 36, 46 (2017).

<sup>30</sup> Pankhuri Agarwal, "Dispelling the Myth that the DU Photocopy Judgment permits Photocopying of Entire Books", available at: <https://spicyip.com/2016/11/dispelling-themyth-that-the-du-photocopy-judgment-permits-photocopying-of-entire-books.html>. (Visited on June 10, 2024)

<sup>31</sup> Prashant Reddy, "Does the DU Photocopy Judgment Place Any Limits on Photocopying?", available at: <https://spicyip.com/2016/10/does-the-du-photocopy-judgment-place-any-limitson-photocopying.html>. (Visited on June 10, 2024).

<sup>32</sup> Section 32A of the act allows license to be issued by the Copyright Board on an application made to it for systematic instructional activities, where the copies of the work are not made available in India and such copies have not been put on sale in India at a reasonable price.

<sup>33</sup> Id. at 17

<sup>34</sup> Prashant Reddy Thikkavarapu, "The DU Photocopy Judgment- A Chronicle of the Missed Arguments", 2(3) Indian Law Review 1, 2 (2018).

have been a step in the right direction. If the prices of the digital books are priced in a reasonable manner, then the duplication of the digital books at a proportion that is lower than a certain threshold would be considered to be fair use. If the publishing industry had been in possession of this knowledge, it would have been advantageous for them to construct a robust business plan.<sup>35</sup>

It was also said that the verdict encouraged students to photocopy course materials rather than reading them, which was another criticism that was leveled against it. Due to the fact that it would accept photocopying as a replacement for libraries, this would result in the perpetuation of academic poverty in India.<sup>36</sup> It was claimed in answer to this perspective that the teaching approach, and not the course packs, is to fault, and that just reversing the verdict that was preferred by the publisher would not remedy this misperception. This position was taken in reaction to the opinion that was presented.<sup>37</sup>

## **Conclusion**

The judgement regarding Section 52 of the Copyright Act, 1957, which allows the reproduction of works through copying photocopying for education & academic, has been deemed legal. The principle of Fair dealing offers a detailed guideline. Anything not included within this fall is directly under copyright infringement.

This case raises important questions about how to establish limits of Fair dealing. If limitless usage is allowed under this doctrine, can it still be considered genuine or does it become questionable?

In examining this, the court stepped away from the standard four-factor test of Fair use. Instead, it created its own criteria for evaluating Fair Dealing. These criteria include purpose, nature, percentage of work used, and impact on the market. This new interpretation has reduced the extent of copyright protection. Now, it can easily be misused in the name of education. Academics such as teachers or professors can utilize copyrighted material without strict limitations if it serves their purpose. This shift in rights seems quite unreasonable for several reasons.

Determining when the educational use of copyrighted material ends is not clear-cut at all. This interpretation complicates understanding of what constitutes bona fide versus mala fide fair use. The unclear distinction between these rights and exceptions undermines the original purpose of copyright protection. Even though some protection exists, it often feels paused in favor of fair users' rights. Judges imply that absolute copyright protection does not exist; this protection must be viewed as a

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<sup>35</sup> Shamnad Basheer, "Copyright as exception" The Indian Express, October 19, 2016; Satish Deshpande, "Copy-wrongs and the invisible subsidy" The Indian Express, October 7, 2016

<sup>36</sup> Krishna Kumar, "Shortcut to scholarship" The Indian Express, October 11, 2016.

<sup>37</sup> Shamnad Basheer, "Copyright as exception" The Indian Express, October 19, 2016.

statutory right instead.

The implications of this interpretation could confuse individual teachers & students greatly. If taken literally, one might argue that any work could be photocopied or reproduced for educational reasons – raising concerns about whether authors in education would have any protection at all. The judge argued that photocopying and taking cell phone images are both potential infringements if course packs cross the line into copyright violation.

The broader view of fair use was illustrated with examples from Section 52, although these updates have yet to take effect. It becomes evident that students photocopying copyrighted works seems equivalent to universities providing students with course materials.

While this interpretation sounds intriguing, it mainly centers on balancing rights holders' interests with student welfare. A clearer definition and understanding of Fair use is required. Judges & lawmakers need to consider how limitless fair use interpretations may eventually impact creative incentives behind producing works. Establishing minimal thresholds for copyright protection similar to the four-factor test should be a priority to uphold copyright's intent.

This judgement also raises issues about whether Fair use has shifted from an exception to a right itself. The judge emphasized that public welfare concerns outweigh those given to copyright holders. This raises questions about India's unclear copyright framework considering this conflict, highlighting confusion over fair use as either an exception or a user's right.

The court's interpretation will significantly influence how educational materials and books are published in India. The judge placed considerable emphasis on affordability while claiming that such an approach will benefit national progress; however, it severely undermines defendants' economic interests.

There was little consideration of how this impacts the plaintiffs' profits; any losses faced by them were dismissed based on students' low purchasing power – which is not sustainable reasoning. A critical analysis required solid economic evidence regarding damage caused by photocopying practices was overlooked entirely by the court.

The academic institutions appear free to reproduce unlimited work and distribute multiple copies without needing to make additional purchases. This situation seems to protect everyone except publishers & authors, leading to practices where one book can be purchased legally but numerous copies made within institutions claim educational grounds as justification. Such actions undermine

incentives for authors & publishers alike while subtly favoring profit-driven motives.

This landmark judgement promotes free access to information within academic contexts while broadening interpretations around fair use considerably. It highlights how user rights may outweigh statutory protections provided by copyright when justified correctly.

Ultimately, balanced approaches are essential between exceptions & rules related to copyright law moving forward; developing standards that respect both rights holders & users in an increasingly globalized context is more important than ever. Therefore, there is need for improvement in how fair use/ fair dealing is applied in India.

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