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EDITORIAL ANALYSIS

NCERT vs Court — Should Judges Police Textbook Content?



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NCERT vs Court — Should Judges Police Textbook Content?

The Indian Express 28 March 2026 **GS2**

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INTERVIEW ANGLE

"The Supreme Court banned an NCERT chapter on judicial corruption. Does this set a dangerous precedent for academic freedom and separation of powers?"

WHY IN NEWS

On February 26, 2026, a three-judge Bench led by Chief Justice of India Surya Kant took suo motu cognisance of Chapter IV ("The Role of the Judiciary in Our Society") in NCERT's Class VIII social science textbook "Exploring Society: India and Beyond" (Vol. II). The Court imposed a blanket ban, ordered seizure of all 2.25 lakh printed copies, issued contempt notices to the NCERT Director and the Secretary of School Education, and subsequently barred three authors from all future government-funded curriculum work.

THE SEQUENCE OF EVENTS

The controversy unfolded in rapid succession over **four days** in late February 2026:

DATE	EVENT
February 23, 2026	NCERT released "Exploring Society: India and Beyond" (Part II), the new Class VIII social science textbook under the National Curriculum Framework 2023
February 24, 2026	The Indian Express published a report highlighting Chapter IV's sub-section on "Corruption in the Judiciary," referencing 81,000 pending cases in the Supreme Court and allegations of systemic judicial corruption
February 25, 2026	Supreme Court advocates flagged the newspaper report before a Bench; the Court expressed "shock" at the textbook content
February 26, 2026	CJI Surya Kant-led Bench (with Justices Joymalya Bagchi and Vipul M. Pancholi) took suo motu cognisance, imposed a complete blanket ban , and issued show-cause notices under Section 2(c) of the Contempt of Courts Act, 1971

The Three Authors Barred

On **March 11, 2026**, the same Bench identified and barred three experts who supervised the chapter:

AUTHOR	DESIGNATION
Michel Danino	Visiting Professor, IIT Gandhinagar
Suparna Diwakar	Educator and curriculum specialist
Alok Prasanna Kumar	Legal researcher

The Court directed the Centre, all State Governments, and universities to “**disassociate**” from these individuals for all future publicly funded academic projects. This direction was issued **without giving the three individuals a prior hearing** – a point that critics have highlighted as a violation of natural justice principles (*audi alteram partem*).

The Expert Committee

The Court further ordered that the rewritten chapter must be vetted by a government-constituted **expert committee** comprising:

- ❶ One **former senior judge**
- ❷ One **eminent academician**
- ❸ One **renowned practitioner of law**

This committee must approve the revised text before NCERT can publish the chapter for the 2026-27 academic session.

THE EDITORIAL’S CORE ARGUMENT

The Indian Express editorial frames the controversy not as a debate about whether judicial corruption exists, but as a **structural question about institutional boundaries**: Should the judiciary decide what goes into a school textbook?

1. Curriculum Is Executive-Academic Territory

India’s constitutional architecture assigns **education** to the **Concurrent List** (Entry 25, List III, Seventh Schedule). The **Right of Children to Free and Compulsory Education (RTE) Act, 2009** – specifically **Section 29** – designates the **NCERT** as the academic authority responsible for laying down curriculum and evaluation procedures for schools affiliated to the Central Board.

The editorial argues that when the Supreme Court orders a blanket ban on a textbook, directs its content to be rewritten, and mandates judicial approval of the revised version, it effectively **inserts itself into the curriculum-design process** – a function that the Constitution and statute assign to the executive and

autonomous academic bodies.

2. NCERT’s Institutional Autonomy at Stake

NCERT was established on **September 1, 1961**, as an **autonomous organisation** registered under the Societies Registration Act, 1860. It is neither a statutory body nor a department of the government – it is designed to function with **academic independence**.

The editorial highlights a troubling precedent:

- If a court can ban a textbook chapter because it discusses judicial shortcomings, can it also ban chapters that critique **parliamentary dysfunction**, **executive overreach**, or **police brutality**?
- The order does not merely correct factual errors – it imposes a **content veto** by the very institution being discussed.

3. Contempt Power vs Academic Freedom

The Court invoked **criminal contempt** (Section 2©, Contempt of Courts Act, 1971) – defined as any publication that “scandalises or tends to scandalise, or lowers or tends to lower the authority of any court.” The editorial raises three counter-arguments:

COURT’S POSITION	COUNTER-ARGUMENT
The chapter was “reckless, irresponsible, and motivated”	The chapter referenced publicly available data from the National Judicial Data Grid (NJDG) on case pendency and delays
Content could “instil bias in young students”	Democratic education “requires students to understand institutional strengths and weaknesses – not sanitised narratives
Authors acted with deliberate intent to defame the judiciary	The 2006 Amendment to the Contempt of Courts Act introduced truth as a valid defence if the publication is in public interest and made in good faith

4. The Separation of Powers Problem

The editorial identifies a deeper constitutional tension. India’s democracy rests on three co-equal pillars:

- **Legislature** makes laws
- **Executive** implements policy (including education)
- **Judiciary** interprets law and protects rights

When the judiciary **bans a textbook** written by an **executive-funded autonomous body**, and then **mandates judicial representation** on the committee that rewrites it, it breaches the **functional separation** between these pillars. The judiciary becomes simultaneously the **subject of the chapter**, the **complainant**, the **judge**, and the **content approver** – a concentration of roles that no democratic framework envisions.

WHAT THE TEXTBOOK ACTUALLY SAID

The contested chapter discussed several aspects of the Indian judicial system that are **factually documented**:

- **Case pendency:** Over **5 crore (50 million) cases** pending across all courts (data from the National Judicial Data Grid)
- **Supreme Court backlog:** Approximately **81,000 cases** pending as of early 2026
- **Judicial vacancies:** Chronic unfilled positions in High Courts (sanctioned strength ~1,100; working strength routinely below 800)
- **Corruption references:** General observations about systemic challenges, not allegations against named judges

The Court characterised these passages as a “calculated measure” to “taint the integrity and defame the entire institution.” Critics point out that the same data is freely available on government portals, cited in Law Commission reports, and discussed in parliamentary debates.

ARGUMENTS FOR AND AGAINST THE BAN

Arguments Supporting the Court’s Position

- ① **Impressionable age:** Class VIII students (ages 13-14) may lack the maturity to contextualise criticism of institutions
- ② **Institutional dignity:** The judiciary’s authority depends partly on public confidence; presenting corruption as a defining feature could erode trust
- ③ **Factual accuracy:** The chapter may have lacked nuance, presenting systemic problems without adequate context about reforms, safeguards, and the judiciary’s own corrective measures
- ④ **Constitutional basis:** Article 19(2) explicitly lists **contempt of court** as a valid ground for restricting speech; the Court acted within its powers under Article 129

Arguments Against the Ban

- ① **Prior restraint:** A blanket ban on an entire textbook – not just the offending section – amounts to prior restraint, which the Supreme Court itself has held to be **“the most serious form of restriction on free speech”** (Brij Bhushan v. State of Delhi, 1950)
- ② **No hearing:** The three authors were barred without being heard – violating the principle of **natural justice**
- ③ **Chilling effect:** The order sends a signal to all curriculum designers, textbook authors, and education researchers that writing critically about institutions carries professional consequences

- ④ **Proportionality:** Less restrictive alternatives existed – requiring a disclaimer, adding a balancing section on judicial reforms, or mandating revision of the specific sub-section rather than banning the entire book
- ⑤ **Who guards the guardian?:** When the judiciary restricts speech about itself, citizens have no effective appellate remedy – creating a **democratic accountability gap**

INTERNATIONAL PARALLELS

COUNTRY	APPROACH TO TEXTBOOK CONTENT ON JUDICIARY
United States	First Amendment protections; <i>Sweezy v. New Hampshire</i> (1957) and <i>Keyishian v. Board of Regents</i> (1967) established that academic freedom is “a special concern of the First Amendment”; textbooks routinely discuss judicial controversies including <i>Bush v. Gore</i>
United Kingdom	No formal contempt restrictions on educational content; school curricula discuss judicial errors and systemic delays openly; Judicial Appointments Commission encourages public scrutiny
South Africa	Post-apartheid constitution guarantees academic freedom (Section 16); textbooks discuss the judiciary’s apartheid-era complicity as a lesson in institutional accountability
Germany	Academic freedom is a fundamental right under Article 5(3) of the Basic Law; courts cannot interfere with curriculum content unless it violates constitutional principles

The editorial notes that **no major democracy** has a precedent for a court banning a school textbook because it discussed problems within the judicial system.

THE WAY FORWARD

The editorial suggests a multi-pronged approach:

1. Restore NCERT’s Academic Autonomy

Curriculum content should be determined by **domain experts and educationists**, not courts. NCERT’s autonomous status under the Societies Registration Act must be respected. Judicial input can be invited but should not be imposed through contempt proceedings.

2. Reform the Contempt of Courts Act

The **Law Commission’s 274th Report (2018)** recommended abolishing criminal contempt for “scandalising the court” – arguing that robust democracies do not need such provisions. The UK abolished this offence in 2013 through the **Crime and Courts Act**. India should follow suit.

3. Adopt a Proportionality Framework

Instead of blanket bans, courts should apply the **proportionality test** (from *K.S. Puttaswamy v. Union of India*, 2017):

- Is the restriction **necessary** for a legitimate aim?
- Is it the **least restrictive** measure available?
- Is there a **rational nexus** between the restriction and its purpose?

A proportional response would have been to direct revision of the specific sub-section, not ban the entire textbook and blacklist its authors.

4. Strengthen Internal Judicial Accountability

If the judiciary is concerned about public perception, the answer is **greater transparency**, not censorship:

- Revive the **Judicial Standards and Accountability Bill** (introduced 2010, lapsed 2014)
- Make **Collegium deliberations** more transparent
- Mandate **asset declarations** for all judges (currently voluntary)
- Strengthen the **in-house procedure** for complaints against judges

UPSC RELEVANCE

NCERT (established 1961, autonomous, registered under Societies Registration Act 1860), RTE Act 2009 Section 29 (curriculum authority), Contempt of Courts Act 1971 (criminal contempt – Section 2©; 2006 Amendment – truth as defence), Article 19(1)(a) and 19(2) (free speech and reasonable restrictions), Article 129 (SC as court of record), Education on Concurrent List (Entry 25, List III).

MAINS GS2:

Separation of powers and institutional boundaries; judicial overreach in education policy; academic freedom vs contempt jurisdiction; NCERT autonomy and curriculum governance; role of education in democracy; comparison of contempt laws across democracies.

★ FACTS CORNER – KNOWLEDGEPEDIA

THE SC ORDER (FEB 26, 2026):

Bench: CJI Surya Kant, Justices Joymalya Bagchi and Vipul M. Pancholi

Case: In Re: Social Science Textbook for Grade-8 (Part 2) published by NCERT

Nature: Suo motu cognisance

Order: Complete blanket ban; seizure of all 2.25 lakh copies (38 already sold); contempt notices to NCERT Director and Secretary, School Education

Ground: Criminal contempt under Section 2©, Contempt of Courts Act, 1971

THREE AUTHORS BARRED (MARCH 11, 2026):

Michel Danino (Visiting Professor, IIT Gandhinagar)

Suparna Diwakar (Educator)

Alok Prasanna Kumar (Legal researcher)

Direction: Centre, States, and universities to “disassociate” from all three for future publicly funded projects

No prior hearing was given to the authors before the order

NCERT – KEY FACTS:

Established: September 1, 1961 (merged 7 pre-existing institutions)

Status: Autonomous body, registered under Societies Registration Act, 1860 (NOT a statutory body)

Role under RTE Act: Designated academic authority under Section 29 (notified March 31, 2010)

Textbook: “Exploring Society: India and Beyond” (Vol. II), Class VIII, under NCF 2023

Response: Issued unconditional public apology; withdrew entire book; committed to rewriting Chapter IV

CONTEMPT OF COURTS ACT, 1971:

Civil contempt: Wilful disobedience of court orders (Section 2(b))

Criminal contempt: Scandalising or lowering authority of court (Section 2©)

2006 Amendment: Truth is a valid defence if publication is in public interest and in good faith

Prashant Bhushan case (2020): Convicted for tweets criticising CJI; fined Re. 1

UK abolished “scandalising the court” as contempt in 2013 (Crime and Courts Act)

CONSTITUTIONAL PROVISIONS:

Article 19(1)(a): Freedom of speech and expression

Article 19(2): Reasonable restrictions (8 grounds – including contempt of court)

Article 129: SC as court of record with contempt power

Article 215: HC as court of record with contempt power

Education: Concurrent List (Entry 25, List III, Seventh Schedule)

JUDICIAL PENDENCY DATA (NJDG):

Total pending cases: Over 5 crore (50 million) across all courts

Supreme Court: ~81,000 pending cases

High Courts: ~62 lakh pending cases

HC sanctioned strength: ~1,100 judges; chronic vacancies (~30-35% unfilled)

KEY LEGAL PRECEDENTS:

Brij Bhushan v. State of Delhi (1950): Prior restraint is “the most serious form of restriction on free speech”

Sweezy v. New Hampshire (1957, USA): Academic freedom is “a special concern of the First Amendment”

Keyishian v. Board of Regents (1967, USA): Academic freedom is essential to democracy

K.S. Puttaswamy v. Union of India (2017): Proportionality test for rights restriction

Law Commission 274th Report (2018): Recommended abolishing criminal contempt for “scandalising the court”

OTHER RELEVANT FACTS:

RTE Act 2009, Section 29: State governments must specify academic authorities for curriculum; Central Government notified NCERT as academic authority

National Curriculum Framework 2023 (NCF 2023): Latest framework guiding NCERT textbook revision

Judicial Standards and Accountability Bill: Introduced 2010, lapsed 2014; aimed at creating a judicial complaints mechanism

South Africa Section 16: Constitutional guarantee of academic freedom

Germany Article 5(3): Academic freedom as a fundamental right under Basic Law

Sources: [Indian Express](#), [LiveLaw](#), [The Leaflet](#), [Bar and Bench](#), [SCC Online](#)



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