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Universal Access to Human Knowledge

"The Great Promise of Our Times!"

November 30, 2021

Dr. Usha R. Vijailakshmi
Officiating Honorary Secretary
The Asiatic Society of Mumbai
Town Hall, Shahid Bhagat Singh Road, Fort
Mumbai – 400 001
India

via **Electronic Mail**

Dear Dr. Vijailakshmi Ji:

I am writing in reference to your messages of June 18, 2021 and November 27, 2021 to the Internet Archive regarding the posting of 67,969 items. I am attaching both of your messages as Annexures. Contrary to what is asserted, you did indeed receive an immediate answer, which I dispatched to you on **June 21, 2021**, not July 30 as you stated. I never heard back from you. You did not acknowledge receipt, nor did you respond to my offer to discuss the situation with you.

I would further note that you changed your terms of use, copyright notice, and "privacy statement" on your web site on July 6, 2021, presumably in response to my letter. Previous to that, I did not see any prohibition against my actions. Your protestation in your recent missive that you had not received an answer is not aligned with the facts.

As I stated in my letter of June 21, the works in question are not subject to copyright. They are old documents. I did remove your watermark because I felt it was desecrating the texts by imposing a huge watermark on each and every page and in many cases those texts are sacred and it is not appropriate to stamp a big advertisement on them.

As I stated in my prior letter, numerous transformations have been made to these public domain texts. Optical character recognition has been performed on each item, making them accessible to the visually impaired, as required by Indian law in the **Rights of Persons with Disabilities Act, 2016**.

The Granth Sanjeevani does not make materials available in a way that makes documents in formats that are accessible to persons with disabilities. Please look at this Web Accessibility Evaluation for your site:

<https://wave.webaim.org/report#/https://granthsanjeevani.com/jspui/>

Further, access for the visually impaired is an exception to any copyright assertions per the provisions of the **Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled**, to which both the United States and India are signatories.

DS
CM 11/30/2021

Your email messages speak of violations of your “privacy policy” and of your “portal rights.” Your modifications to your policies on July 16, 2021 now includes the following in your **Terms of Service & Disclaimer** which were not in place previously:

The digitized content is available for ‘Viewing’ purpose for the paid member and ‘Download is strictly Dis-allowed’. Any attempt made by anybody to ‘Download’ the digitised content without the prior permission of The Asiatic Society of Mumbai, will be a clear infringement and violation of our privacy policy and will be a criminal offense. The society reserves the right to take action against such criminal offense.

Once again, I would like to stress that none of the works in question are subject to copyright. More importantly, even if there was a copyright assertion that was valid, **Section 52 of the Copyright Act, 1957** has a long list of exceptions to copyright. For example, copies may be made for private use, including research, as well as as well as in the court of education. As Hon’ble Justice Endlaw of the Delhi High Court stated in the famous **Delhi University Photocopy Case**:

Copyright is intended to increase and not to impede the harvest of knowledge. It is intended to motivate the creative activity of authors and inventors in order to benefit the public.

This is because copyright, and private agreements such as terms of use, are all subservient to the fundamental rights in the Constitution of India. Among those rights are the freedoms of speech and expression and the right to practice any profession. How can there be liberty of thought if people are denied access to knowledge? How can there be equality of status and opportunity if knowledge is locked behind a cash register?

Each and every item we uploaded to the Internet Archive contains this note:

This item is part of a library of books, audio, video, and other materials from and about India is curated and maintained by Public Resource. The purpose of this library is to assist the students and the lifelong learners of India in their pursuit of an education so that they may better their status and their opportunities and to secure for themselves and for others justice, social, economic and political.

This library has been posted for non-commercial purposes and facilitates fair dealing usage of academic and research materials for private use including research, for criticism and review of the work or of other works and reproduction by teachers and students in the course of instruction. Many of these materials are either unavailable or inaccessible in libraries in India, especially in some of the poorer states and this collection seeks to fill a major gap that exists in access to knowledge.

Your email message stated that your opinion that I was “justifying and glorifying” my actions. Ma’am, with all due respect, I take umbrage at your tone. The vast majority of the users accessing the items in question are in India. We are providing them access to knowledge, on a strictly non-commercial basis, during this time of a global pandemic, to allow people to further their education and instruct themselves.

We have no objection to you providing a commercial service with your business partners, but there is really no justifiable reason for you to actively deny people access to knowledge. It is wrong, and it does not do credit to the long and proud history of the Asiatic Society of Mumbai, nor do these actions you are demanding meet the

Asiatic Society of Mumbai's **Aims and Objects** to "promote useful knowledge particularly such as is now immediately connected with India" and to "encourage the study of research in the language, philosophy, arts and natural and social sciences in relation to Asia in general and India."

Public Resource has placed over 13 lakh books, videos, official gazettes, and other materials on line. The Granth Sanjeevani materials are a small part of the collection. You are the only organization that has persisted in attempting to delete this knowledge and prevent people in India from using it, and I would like an opportunity to at least present my proposition to you that making these materials available is actually of benefit to the Asiatic Society of Mumbai. You have a huge number of additional items on your site, we link back to the source and credit your sponsors on each item. Surely, some of those people will decide to opt for the service you offer with your commercial partners?

That is your right. But, you shouldn't be trying to stop other people from making knowledge available. The threats and demands are not appropriate. We did nothing wrong. Again, the materials are not subject to copyright, and even if they were, this noncommercial use is permitted.

Universal access to human knowledge is the great promise of our time. Knowledge cannot be owned, it can only be held in trust, and trusteeship of knowledge is at the very core of the mission of the Asiatic Society of Mumbai. In Nītiśatakam, Bhartrhari teaches us that "knowledge is such a treasure which cannot be stolen." We should not build walls around knowledge, for it does not work. In **Towards New Horizons**, Pyarelal quotes Gandhi-ji as saying "if the owning class does not accept the trusteeship basis voluntarily, its conversion must come under the pressure of public opinion."

In my previous letter on June 21, 2021, I made two offers, which I reiterate herein:

If you would like, you are free to download any of the items which now have optical character recognition and use those materials. If you'd like, I can download all the items and put them on a disk drive for you and send it to Mumbai.

If you wish to discuss this matter further, I would be happy to do a Zoom, WhatsApp, or phone call with you. You may reach me on my email at carl@media.org. In normal times, I would request an audience with you and come see you in person to pay my respects, however I have not been able to come back to India since last March. I have many colleagues, friends, and associates in India, and my thoughts are with all of you during these troubled times of the pandemic.

Again, I would reiterate that I would be pleased to discuss this issue with you. Furthermore, I have temporarily removed all the objects in question from public view so that we may have that discussion. This process will take several more days to complete, but you may monitor the progress [here](#).

With best regards,

DocuSigned by:
Carl Malamud
F4821C69711D44D...

Carl Malamud, President
Public Resource



DS
11/30/2021

Annexure A—Email Message of June 18, 2021 from Officiating Honorary Secretary

----- Original Message -----

Internet Archive,

I write on behalf of the Asiatic Society of Mumbai, India. Granth Sanjeevani is our online web portal where we publish our library resources on the internet for subscribers as paid access with download restrictions. It has come to our attention that without the permission of Asiatic Society of Mumbai, Internet Archive have accessed and published in your domain 67,969 items of Granth Sanjeevani through your publicly available website www.archive.org for public access, which is a clear infringement of our Granth Sanjeevani privacy policy and is a rights violation. I have attached a screenshot of your web portal with this mail.

I reiterate the fact that this is a clear violation of rights by your portal. Granth Sanjeevani is a paid site and we have uploaded many primary and secondary data which are accessed by our subscribed members.

You are advised to remove these 67,969 items of Granth Sanjeevani from your Open Library website www.archive.org and any other website owned or controlled by you with immediate effect and oblige.

Dr. Usha R Vijailakshmi

Officiating Honorary Secretary,

The Asiatic Society of Mumbai

Town Hall,

Shahid Bhagat Singh Road, Fort,

Mumbai – 400 001.

India

Annexure B—Email Message of November 24, 2021 from Officiating Honorary Secretary

----- Original Message -----

Subject: Regarding Granth Sanjeevani's collection available on Internet archives site

Date: 2021-11-24 23:33

From: Asiatic Society of Mumbai <asiaticsociety1804@gmail.com>

To: info@archive.org

The Head

Internet Archives

This is further to my letter dated 18th June 2021, wherein I had categorically advised you to remove all the pdf publications of Asiatic Society of Mumbai that were illicitly downloaded by Mr. Malamud from the 'Granth Sanjeevani' portal of our Society without our written permission and ultimately uploaded on Internet archives portal www.archives.org [1].

It is also very unprofessional on the part of Internet archives for not even responding to my mail. What is more perturbing is receiving an email from Mr. Malamud dated 30th July 2021, not only admitting to having been responsible for this act but justifying and glorifying his actions.

All these 67,969 pdf books that have been unauthorizedly uploaded on your website www.archives.org [2] are rare and valuable and copyrighted and painstakingly digitized by our Society. All these books contain our Society's stamp, watermark, barcode and donor's accreditation.

You are once again strongly advised to take our notice seriously and take immediate action to remove these 67,969 items of Granth Sanjeevani from your Open Library website www.archive.org [3], as well as from any other website owned or controlled by you, with immediate effect, else we will be compelled to take serious action against your organization.

Usha R Vijailakshmi

Officiating Hon. Secretary
THE ASIATIC SOCIETY OF MUMBAI

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