

Application of Indian Copyright Act 1957 in Bengali Publication in India

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Abstract – Indian copyright Act consists of 15 chapters and 79 sections. All these sections are not related to publication rights and rights to creators. Section 33 to 43 in Chapters 7, 8, 9 is related to copyright society, Rights of Broadcasting Organization and of Performers, International Copyright. Respectively section 63 to 79 in chapters 13, 14, 15 is related to Offences, Appeals, and Miscellaneous. This paper tries to focus on sections which are related to publication rights and rights to creators. This paper also tries to collect some information from Bengali writers and publishers about application copyright in Bengali publication. The paper shows what is the present scenario of application of copyright in Bengali publication and problems. This paper also reflects scenario of Bengali publication in India previous ten years.

Key Words: Bengali Publication, Copyright, Intellectual Property, Infringement of copyright, Violation of Copyright.

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1. INTRODUCTION:

In a short survey among the authors and publishers about application of Copyright in Bengali publication, the result founded 90 percent Bengali authors do not know how to protect their creation by copyright act and they do not know which facilities they can take from Indian Copyright Act. In the survey some information has been collected regarding publication of Bengali books and Violation of intellectual Property in Bengali publication. The importance of Copyright in protection the rights of an author and how far that is protected by the Copyright Act and its impact on publishers all matters that have been taken into consideration in the present article. This paper explains about Intellectual Property, Copyright, objectives of copyright, Owner of a Copyright, Indian Copyright Act 1957, and Infringement of copyright in India, Term of Copyright, and Copyright Registration Process.

2. INTELLECTUAL PROPERTY:

The human brain is capable of create new knowledge and innovate and it does not take rest. That is why relentlessly creates new things such as designs, inventions, trademarks and other new-fangled things etc. When these things appear intangible then it takes a form of property (Intellectual Property) which anyone does not innovate before

that. Only human beings are capable of creativity.¹ They can be authors, composers, artists and designers for creating their original works. Generally, it is they alone who will be entitled to enjoy the exclusive rights to do or authorize others to do certain acts in relation to rights vests with them. Copyright was the first intellectual property which received legal recognition in the world.²

Intellectual property specifies creations of intellect, which includes innovations, inventions, scholarly, literary, and creative efforts, symbols, designs, logos, images, etc. that has some economic, social, and cultural value. Property can be of intangible which include intellectual property, securities, right to individual reputation, etc. Intellectual property has loosely been defined as a product of mind. Indeed, it is any property consisting of movable or immovable things wherein the owner may use his property as he wishes and nobody else can lawfully use his property without his permission.³

3. COPYRIGHT:

Copyright stands for legal right to prevent others from copying an existing work of an individual. It is such a right exclusively given for a definite period of time to the originator (author or creator) of intellectual work such as publication, or an article

or a literary work for sale or any other use. In other words, copyright is a set of property rights vested in the owner of a protected work which covers published and unpublished literary, scientific and artistic works, etc. Copyright broadly include : Literary works; Musical works; Dramatic works; Audiovisual works; Pantomimes and Choreographic works; Photographic works; Sound recordings; Broadcast; Architectural works; Sculpture; Drawing; etc.⁴

3.1 Objectives of Copyright:

1. The main objective of the Copyright Act is to encourage authors, composers, artists, and designers to create original works by rewarding them with the exclusive right for a limited period (usually for the life of the originator plus 60 years) to exploit the work for monetary gain.
2. Publisher cannot print more copies without author's permission, and nobody else can duplicate any work. Whichever author will be sure of financially, the Creator's enthusiasm for real work will increase. If the any work is duplicated, the creator can take legal action. The government will get a specific tax on publication.
3. The quality of the writing will improve. Need a specific standard of writing to get copyright, With respect to that standard, any writer will be careful about his writing.⁵

3.2 Owner of a Copyright:

- In the case of a literary, dramatic, musical or artistic work, the general rule is that the author, i.e. the person who created the work is the first owner of the economic rights under Copyright. However, where such a work is made in the course of employment, the employer is the first owner of these rights, unless an agreement to the contrary has been made with the author.
- In the case of a film, the principal director and the film producer are joint authors and first owners of the economic rights, and similar provisions as referred to above apply where the director is employed.
- In the case of a sound recording, the record producer is the author and first owner of Copyright; in the case of a broadcast, the broadcaster; and in the case of a published edition, the publisher.

3.3 Term of Copyright:

In case of literary, dramatic, musical or artistic works, the term is lifetime of the author plus sixty years. In case of cinematograph films, records, photographs, posthumous publication, works of Government and international agencies, the term is sixty years from the date of publication. In case of broadcasting the term is of twenty-five years from the year in which the broadcast was made.

3.4 Indian Copyright Act 1957:

In India the Copyright Act was introduced in the duration of East India Company 1847. In 1914, the Indian Copyright Act came into being following this Act and it was also followed by the British Copyright Act. After the independence, the Comprehensive Copyright Act was introduced in 1957 and it was later amended in 1983, 1984, 1994 and 1999. Then it was amended in 2010, 2012 and some rules were made in 2013.

4. INFRINGEMENT OF COPYRIGHT IN INDIA:

Copyright law confers upon the owner of the work a bundle of rights in respect of reproduction of the work and the other acts which enables the owner to get financial benefits by exercising such rights. If any of these rights relating to the work is carried out by a person other than the owner without the license of the owner or a competent authority under the act, it constitutes infringement of copyright in the work. Section 51 defines infringement of copyright generally. Section 52 defines a long list of acts which do not constitute infringement of copyright.

5. COPYRIGHT REGISTRATION PROCESS:

In order to obtain the copyright, the application has to be filed with the specified form (FORM XIV) in the copyright office, According to Indian Copyright Act, 1957, Section 457. The Copyright Office is located in New Delhi under Department of Promotion of Industry and Internal Trade, Ministry of Commerce and Industry. Apply online for getting copyright. Many legal firms currently do this work because the general publisher, author, creator does not know much about this.

The following describes the action flow of copyright registration. According to this process, new discoveries can get copyright.⁶

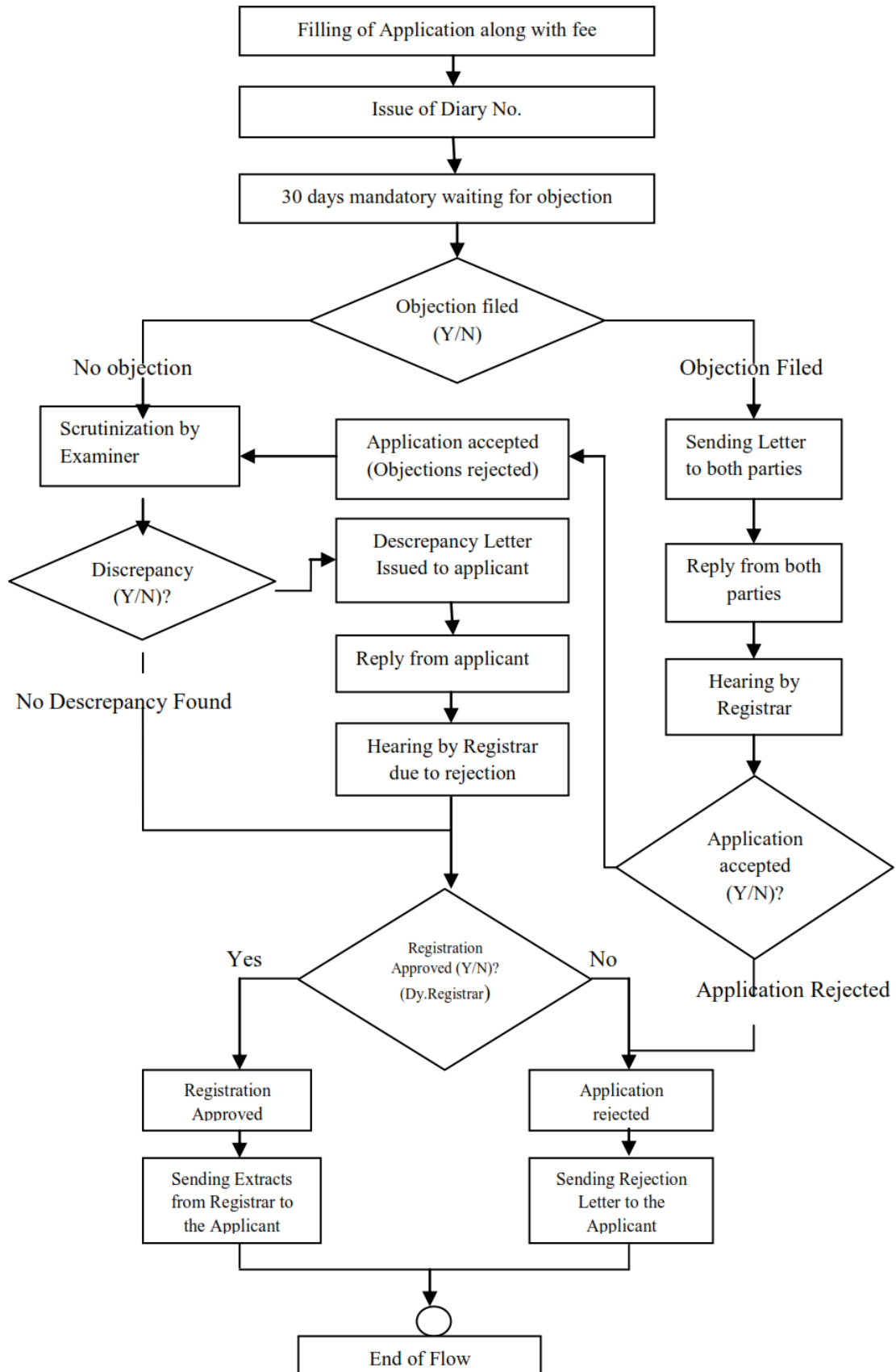


Figure-1: Copyright Registration Workflow

6. HISTORY OF BENGALI PUBLICATION:

The information of Bengali publication in India is collected from bibliography prepared by State

Central library, Kolkata on the basis of the book submitted by publisher to the Register of Publications Department. According to bibliography the number of Bangli books published in 2007-2016 is as follows. Here the number of books for

the last ten years 2007-2016 is 24762. The books are divided in year wise as follows.⁷

Table-1: Year Wise Publication (2007-2016)

Year Wise Bengali Book Publication in India (2007-2016)										
2016	2015	2014	2013	2012	2011	2010	2009	2008	2007	Total
2092	3161	3014	2885	3019	2628	2986	3083	1729	165	24762

According to the above list more than three thousand books are published in the year of 2015,2014,2012,2009. More than two thousand books are published in the year of 2016, 2013, 2011, 2010 and below one thousand books are published in 2008,2007.

All books are categorized according to Subject-based classification scheme D.D.C. (Dewey decimal classification).According to the scheme the books has been divided into the 000-900 class is as follows.

Table-2: Subject wise Bengali book published in the year (2007-2016)

Subject	2016	2015	2014	2013	2012	2011	2010	2009	2008	2007	Total
Computer science, information & general works (000)	33	45	93	89	96	65	105	106	55	6	693
Philosophy & psychology (100)	10	11	10	16	22	10	16	7	16	X	118
Religion (200)	95	111	62	32	43	47	68	75	55	8	596
Social Science (300)	205	239	132	97	129	91	84	122	52	9	1160
Language (400)	30	26	33	24	37	32	22	15	19	2	240
Science (500)	78	99	93	66	69	63	94	101	42	1	706
Technology (600)	27	26	34	32	39	32	38	36	38	1	303
Arts & recreation (700)	53	89	74	75	61	38	38	59	34	8	529
Literature (800)	1213	2179	2188	2196	2280	2072	2295	2310	1243	110	18086
History, Geography, Biography (900)	348	336	295	258	243	178	226	252	175	20	2331
Total											24762

According to the above list maximum books are literature books, after that History, Geography, Biography books than social science books and below one thousand books are published in Philosophy & psychology, Language, Science, Technology, Arts & recreation. That is way the information about Application of Copyright in Bengali publication was collected from Bengali writers and publisher who are involved in literature books.

The information was collected of publisher how many publishers publishes Bengali books in India. The information has been taken from bibliography prepared by State Central library, Kolkata on the basis of the book submitted by publisher to the Register of Publications Department. The publisher was categorized according to places. In this list, maximum publisher are from Kolkata. Out of West Bengal there are many publishers in Uttar Pradesh, Jharkhand, Madhya Pradesh, New Delhi, and Mumbai. The total number of publisher is 1998 who have published Bengali books in India. As maximum publisher are from Kolkata, so the information have been collected from here.

Table-3: Place wise Bengali publisher in India

Place	No. of Publisher	Place	No. of Publisher
Agartala	27	Madhyapradesh	1
Bankura	8	Malda	5
Birbhum	17	Mumbai	2
Burdwan	31	Murshidabad	15
Coochbihar	4	Nadia	24
Darjeeling	1	New Delhi	4
East Medinipur	26	North 24 paragana	42
Hooghly	73	North Dinajpur	2
Jalpaiguri	2	Purulia	8
Jharkhand	1	Siliguri	7
Kolkata	1601	South 24 Pargana	21
Kowrah	51	Uttarpradesh	1
		West Mesiniupur	24

7. APPLICATION OF INDIAN COPYRIGHT IN BENGALI PUBLICATION:

In Indian Copyright Act some sections consists of publication and author's rights. For example, 5,6,20,22,23,28,31,32, there is a mention of the publication, in the Section 14,16,17,18,20,23,28,31 are the rights of author's rights. Some information has been collected from publishers and writers about publications and books. Specifically, in terms of Bengali publication, what is the real picture of the application of Copyright Act, and what the problem in applying Copyright Act.

A survey was done by fifty publishers and authors by suitable question related to copyright application in Bengali publication. The survey has tried to find out awareness of Copyright Act and application of copyright Act. Here some information has been discussed from the survey which is 90 percent publisher reply that they do not know how to register copyright of literary work. They also said it Government's duty to aware to the publisher and authors. 95 percent publisher said there is no better writer for taking the advantages of Copyright Act. 5 percent publishers said we do not capable to booked good writers for his work as foreign writers. 90 percent authors said they contract to the publisher for published his work they do not register his work to the copyright office. 80 percent authors sell their work to the publisher. So, there are very low awareness about Copyright Act in Bengali writers and publishers.

For getting information how many Bengali literary works are registered in Copyright office, have been contacted to Copyright Registration office New Delhi, but there is no exact information in this purpose. It was found that the information of the author and publisher who have e-registration from 2016 onwards was available year wise and month wise in the Copyright registration office. In this list information was very comprehensive as it contain of all the subject of Literature, drama, Art, computer programme etc. There was no separate list in literature.

Though there was no another regional Copyright office in anywhere in India, visited some legal firms that dealt with Copyright issues. They answered many famous authors and publisher did not know the existence of Copyright law which could protect the Intellectual property. But there were some famous publisher like Roy and Martin, Chhaya Prokasoni who publish mainly school books register for copyright by the help of legal firms. Because it helps them commercial benefit. There are some limitations of registration of copyright is that if any new edition of any book published then it needed preregistration of the work.

If there is no registration in copyright of any books but if it have copyright declaration "All rights received. No part of this book may be reproduced in any form, by Photostat, microfilm, xerography, or any other means, or incorporated into nay information retrieval system, electronic or mechanical, without the written permission of the copyright owner." Then it is implied that nobody can copy in part or in full form such works which is implied and has legal binding therein.

As we have seen India is a land of many authors, poets, litterateurs, artist, and dramatist, novelist which has great human value and is great assets to the nations. Though the Copyright Act came into force 1914, they were aware or not aware of such as. It is a big questions to us how they protect their creation of that time and how they benefited for their creation.

8. REASON FOR VIOLATION OF COPYRIGHT:

There are some points which have been collected from publishers by the survey where the publishers give their opinion on violation of copyright in Bengali publications.

1. The Collective writing cannot be published if this Act is completely obeyed. Because author receives money from the publication of Collective writing, and also receives single publication from the publisher. The publisher cannot steps anything because the publisher is more than a good writer. It has been accepted by all publishers.
2. A good book (which is being sold more) lifted another publisher by making some changes and selling it in the name of their publication, this resulted in both the publisher and writer being economic lost.
3. When the old book releases new edition, ISBN has been given. The authors could not know anything in this matter.
4. Some authors publish books themselves and sell books themselves. The reader has

difficulty in understanding the importance of such publication books. The rhythm loses its rhythm in the publication process of the book. The government is sometimes deprived of commercial tariffs.

5. According to Copyright Act if 16 lines are same out of 24 lines in a page that will be violation of copyright. But there have an example in the market of Bengali publication; a book has been published by another author name total coping from original work. Original writer do not know the real fact. The information has been taken from a reputed Bengali publisher.
6. Republished a famous book by editing something, because the book is high demanded.
7. Published extra copies of demanded books, do not take permission from the authors.
8. So, it is very difficult to identify why copyright has been violated and how it possible to protect the violation.

9. CONCLUSION

The article shows us intellectual property, copyright and some rules of copyright act. We take some ideas how copyright is violated in publication and application of Indian Copyright in Bengali publication. In this condition a think arise that what is the solution to overcome from this situation. The main fact for the situation is lack of awareness Intellectual Property Right, Copyright Act and registration of copyright act. It is essential to know about the laws, rules and regulations under IPR. Governments have taken up various strategies to make their citizens aware of it. Issues of IPR have become more complex in this digital era.

10. REFERENCES:

1. Prabu, Lakshmana, Suriyaprakash, T.N.K. and Kumar, C. Dinesh (2012). Intellectual Property Rights and its Development in India. *Pharma Times.*, 44(7), pp. 18-19.
2. Singh, Ch Ibohal and Devi, Th Madhuri (2016). Intellectual Property Rights: Some Aspects.
3. Yaranal, Mr. Mahesh and dr. Ramesha,(2012). Managing intellectual property rights in libraries: a practical approaches and solutions. *International Journal of Digital Library Services.*,2(3) pp. 42-43.

4. Lawmann's (2014). *Lawmann's Copyright Act, 1957: Act No.of1957 as amended by Copyright (Amended) Act, 20012 (27of2012) w.e.f.21-6-2012*.New Delhi: Kamal Publishers.
5. <http://www.yourarticlelibrary.com/speech/speech-on-copyrights-meaning-and-objectives/41155> Retrieved on December 30, 2018.
6. <http://copyright.gov.in/frmWorkFlow.aspx> Retrieved on October 25, 2018
7. <http://www.wbpublibnet.gov.in/node/462> Retrieved on October 25, 2018.

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