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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(COMM) 572/2020 & I.A. 12668/2020 I.A. 197/2021 I.A. 590/2021 I.A. 8366/2021 I.A. 11755/2021 I.A. 14908/2021 I.A. 19693/2023 I.A. 19762/2025 I.A. 20156/2025 I.A. 20186/2025

ELSEVIER LTD. AND ORS.

.....Plaintiffs

Through: Mr. Saikrishna Rajagopal, Ms. Sneha Jain, Ms. Disha Sharma, Ms. Snehima Jauhari, Ms. Surabhi Pande and Ms Disha, Advocates

versus

ALEXANDRA ELBAKYAN AND ORS.

.....Defendants

Through: Mr. Shrutanjaya Bhardwaj and Mr. Nilesh Jain and Ms. Shivani Vij, Advocates for D-1

Mr. Dev Pratap Shahi, Mr. Varun Pratap Singh and Mr. Yogya Bhatia, Advs. for R-12 and 13 on behalf of Mr. Rohan Jaitley, CGSC

Mr. Jawahar Raja and Ms. Aditi Saraswat, Advs. for Intervenors in I.A. 590/2021

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **19.08.2025**

CS(COMM) 572/2020

1. Learned counsel for defendant no. 1 states that he has moved a separate application for seeking discharge in this matter however the same is not listed before the Court. He states that the copy of the said application has been duly shared with defendant no. 1.

2. The request of the discharge will be considered as and when the application is listed before the Court.

3. List on **01.12.2025** for orders in all pending applications.

I.A. 590/2021

4. At the outset, Mr. Jawahar Raja, learned counsel representing the intervenors in I.A. No. 590/2021 states that these intervenors should be heard before any orders are passed in I.A. 19762/2025 filed under Order XXXIX Rule 2A of the Code of Civil Procedure, 1908 [‘CPC’].

4.1 He however states that these intervenors are neither ready to be impleaded as co-respondent in the said application, nor are they seeking impleadment in the captioned suit. He states that the intervenors are not willing to bear the consequences of non-compliance of the undertaking dated 24.12.2020 by defendant no. 1.

4.2 He states that these intervenors are not ready to subject themselves to the prayer for injunction and damages sought by the plaintiffs in the captioned suit.

5. In response, learned counsel for the plaintiffs state that an identical application i.e., I.A. 2285/2022, filed by similarly placed intervenors, already stands dismissed by a speaking order dated 10.02.2022. He states that I.A. No. 590/2021 ought to be dismissed on the same reasons.

6. In this Court’s opinion, since intervenors are not willing to take responsibility for the undertaking dated 24.12.2020 given by defendant no.1 and its subsequent breach thereof, which is a subject matter of I.A. 19762/2025, the said intervenors cannot be heard to oppose the reliefs sought in this application.

7. Moreover, in view of the order dated 10.02.2022, it appears that I.A.

590/2021 itself is liable to be dismissed on the principles of estoppel.

8. The said application filed by the intervenors i.e., I.A. No. 590/2021, will be decided on the next date of hearing.

I.A. 19762/2025

9. This is an application filed by the plaintiffs under Order XXXIX Rule 2A of CPC seeking direction against defendant no. 1, thereby restraining the defendant no. 1 from infringing the copyrights of the plaintiff's literary works.

10. Mr. Amit Sibal, learned senior counsel and Mr. Saikrishna Rajagopal, learned counsel appearing for the plaintiffs, addressed arguments on 13.08.2025 and stated that defendant no. 1 - Alexandra Elbakyan, who is a Russian national, is the admitted creator and owner of the website Sci-Hub [accessible at www.sci-hub.ru and via mirror websites located at www.sci-hub.se and www.sci-hub.st]. The Sci-Hub website stores, reproduces, issues copies, makes available for viewing and download, and communicates to the public, plaintiffs' literary works including scientific articles, journals, and books.

10.1 It is stated that applying the factors laid down in **UTV Software Communication Ltd. and Others v. 1337x.to and Others**,¹ Sci-Hub is a rogue website. Reliance is placed on paragraph nos. 59 and 63 of the judgment, which reads as under: -

“59. In the opinion of this Court, some of the factors to be considered for determining whether the website complained of is a FIOL/Rogue Website are:—

- a. **whether the primary purpose of the website is to commit or facilitate copyright infringement;**
- b. **the flagrancy of the infringement, or the flagrancy of the facilitation**

¹ 2019 SCC OnLine Del 8002

of the infringement;

c. Whether the detail of the registrant is masked and no personal or traceable detail is available either of the Registrant or of the user.

d. Whether there is silence or inaction by such website after receipt of take down notices pertaining to copyright infringement.

e. Whether the online location makes available or contains directories, indexes or categories of the means to infringe, or facilitate an infringement of, copyright;

f. Whether the owner or operator of the online location demonstrates a disregard for copyright generally;

g. Whether access to the online location has been disabled by orders from any court of another country or territory on the ground of or related to copyright infringement;

h. whether the website contains guides or instructions to circumvent measures, or any order of any court, that disables access to the website on the ground of or related to copyright infringement; and

i. the volume of traffic at or frequency of access to the website;

j. Any other relevant matter.

...

63. However, in the case of *Department of Electronics and Information Technology v. Star India Pvt. Ltd.*, FAO(OS) 57/2015, a Division Bench of this Court followed a qualitative approach instead of the quantitative approach suggested by the Bombay High Court by observing that the rogue websites are overwhelmingly infringing and therefore prima facie the stringent measure to block the website as a whole was justified. It further held that blocking of specific URLs will not be sufficient due to the ease with which a URL can be changed. The task of continuously identifying each offending URL would be a gargantuan task and at the same time would be useless as the rogue websites could change these URLs within seconds. Relevant portion of the Division Bench judgment is reproduced hereinbelow:—

“11. The steps to change a URL would require, to firstly access the source code of the infringing website and then change the alphanumeric character string of the URL. This could be as easy as changing the password of one's e-mail ID. This would mean that if the URL of a rogue website is blocked, the operator can simply log into the website source code and change the URL akin to a person changing one's password. To give an example, a rogue website www.abc.com whose URL is www.abc.com/india-v-pakistan, can simply log into the website source code and insert the letter 's' after the letter 'v' and change the URL to www.abc.com/india-vs-pakistan. Thus, if the URL www.abc.com/inidia-v-pakistan is blocked, the infringer can start operating on the URL www.abc.om/india-vs-pakistan within a few seconds. But, if a

domain name itself is blocked, to continue with the infringing activity becomes a cumbersome, time consuming and money spending exercise. A new domain name has to be created and purchased apart from purchase of a fresh hosting server space. The entire exercise of creating a website has to be undertaken.

12. Suffice it to state that where infringement on the internet is not in dispute, a judicial response must factor in the comparative importance of the rights that are engaged because the very act of infringement is the justification for interfering with those rights. Therefore, the availability of alternative measures which are less onerous need to be considered. The cost associated with the measures which would include the cost of implementing the measures, also has to be taken into account. The efficacy of the measures which are ordered to be adopted by the ISPs have also to be kept in mind.

13. Now, an ISP could argue that the lesser measure to block the URL would suffice. This argument stands to logic and reason, but would have no content where the offending activity by the rogue website is to carrying on hardly any lawful business and in its entirety or to a large extent, piracy is being resorted to.

14. The respondent has placed enough material in the suit to show that the rogue websites are indulging in rank piracy and thus prima facie the stringent measure to block the website as a whole is justified because blocking a URL may not suffice due to the ease with which a URL can be changed, and as noted above, the number of URLs of the rogue websites range between 2 to 2026 and cumulatively would be approximately 20,000. It would be a gargantuan task for the respondent to keep on identifying each offending URL and especially keeping in view that as and when the respondent identifies the URL and it is blocked by the ISP, the rogue website, within seconds can change the URL thereby frustrating the very act of blocking the URL.”

(Emphasis Supplied)

10.2 It is stated that Sci-Hub promotes itself as a pirate website. Defendant no. 1 acknowledges her blatant disregard for copyright laws in the introduction to the Sci-Hub website. Reliance is placed on the screenshot of

the home page² of the said website mentioned in the plaint.

10.3 It is stated that the website is a vehicle for infringement which claims to have 88.34 million papers in its library. It is stated that these facts evidence that Sci-Hub website fulfils illustrative factors (a), (b) and (f) enlisted in paragraph 59 of the judgment passed in **UTV Software Communication Ltd. and Others v. 1337x.to and Others** (supra).

10.4 It is stated that Sci-Hub has been found to infringe copyright in multiple jurisdictions by using fraudulent means to access and download literary works belonging to several copyright owners including the plaintiffs. It is stated that Sci-Hub has been blocked in eleven (11) countries by Court orders and detailed judgments. The details of the orders and judgments passed against defendant nos. 1 and 2 has been filed on record as document nos. 15-27³. It is stated that this fact fulfils illustrative factor (g) enlisted in paragraph 59 of the judgment passed in **UTV Software Communication Ltd. and Others v. 1337x.to and Others** (supra).

10.5 It is stated that at the hearing on 24.12.2020, defendant no. 1 undertook before this Court that no new articles or publications, in which the plaintiffs have copyright, will be uploaded or made available, by defendant no. 1, via the internet. The said statement was taken on record, and the same finds mention in the order dated 24.12.2020 passed by this Court. It is stated that the said undertaking by defendant no. 1 has been continued by this Court⁴ and remains in force till date.

10.6 It is stated that however, defendant no. 1 has violated this undertaking

² At paragraph 31, page 57 of the plaint.

³ Plaintiffs' documents at page nos. 526 to 848.

⁴ Vide orders dated 06.01.2021, 28.09.2021, 07.10.2021, 16.11.2021, 16.12.2021, 14.01.2022, 20.01.2022, 10.02.2022, 04.03.2022, 01.04.2022, 08.04.2022, 12.05.2022, 13.05.2022, 25.07.2022, 11.09.2023,

by adding ‘new’ articles, published in/after 2022 in which the plaintiffs have the copyright, on Sci-Hub website and on a new sister website called ‘Sci-Net’.

10.7 It is stated that the said facts were revealed when plaintiffs conducted routine investigation to check compliance of the undertaking recorded in the Order dated 24.12.2020.

It is stated that on 29.04.2025, the routine investigations identified that Sci-Hub included a new graphic and invitation encouraging Sci-Hub users to use a new platform Sci-Net, to seek and obtain works not available on Sci-Hub. It is stated that the website Sci-Hub now has a graphic⁵ clickable button, stating ‘if you need access to new papers after 2022, you can request them on Sci-Net’, thus re-directing its users to Sci-Net⁶.

10.8 It is stated that, Sci-Net was announced on 15.04.2025 by defendant no. 1 on her ‘X’ handle. It appears that Sci-Net was initiated with funds received in the form of cryptocurrency donations for Sci-Hub⁷, specifically the meme tokens that are required for account creation and access to its content. It is stated that investigation reveals that Sci-Net serves as a platform for accessing new research papers, in which plaintiffs have copyright, published after 2022 and allows users to request articles, set rewards in tokens for their fulfilment, and offers free access to uploaded articles, which are made available to any user via specific URLs.

10.9 It is stated that in July 2025, the investigation revealed that the ‘article

05.10.2023, 11.12.2023, 05.03.2024 and 06.05.2024.

⁵ Screenshot of the graphic clickable button is at paragraph 22 of the captioned application.

⁶ An illustrative list of the plaintiffs’ works being made available on Sci-Net, is filed as document nos. 13, 15, and 16 in the index of documents dated 11.08.2025, filed with the captioned application.

⁷ Screenshots of the ‘Donate page’ of the Sci-Hub website, and the ‘Introduction to Sci-Net page’ on Sci-Hub website is filed as documents nos. 5 and 6 in the index of documents dated 11.08.2025, filed with the

page’ on Sci-Hub [from which the available articles can be viewed and downloaded] was blank or reported ‘article not found’; however, on 05.08.2025, the investigation revealed that literary works of plaintiff no. 4, all of which were published in 2022 had been uploaded and were being made available on Sci-Hub for viewing and download.

A convenience file has been handed over to the Court by the counsel for the plaintiffs, containing samples of a total of ten [10] works by Plaintiff No. 4 as available on Sci-Hub. It is stated additionally states that several hundred new works, all published post-2022, have now been uploaded and made available on Sci-Hub.

10.10 Mr. Sai Krishna, learned counsel for the plaintiffs, during arguments today [19.08.2025] states that after the last date of hearing before this Court on 13.08.2025, plaintiffs conducted an investigation on the Sci-Net website to confirm the availability of the plaintiffs articles which were available on the Sci-Hub website at the time of filing the present suit, and discovered that once the DOI [‘digital object identifier’] of a sample article of the plaintiffs’ is searched on Sci-Net, a button stating ‘This paper is on Sci-Hub!’ appears, and upon clicking this button, the user is redirected to Sci-Hub, where the article is available for viewing and download.

10.11 He states that the abovesaid evidence disregarding the order dated 24.12.2020, was served upon the defendant no. 1 and in its response, dated 15.08.2025, to the said email, defendant No. 1 stated that the articles from 2022 were made available on Sci-Hub due to a technical error, and that, at present, none of these 2022 articles are accessible from India. Furthermore, defendant no. 1 asserted that Sci-Net is a distinct project separate from Sci-

captioned application.

Hub; therefore, the Court's order prohibiting updates to Sci-Hub with new articles is not applicable to Sci-Net.

10.12 He states that vide the abovementioned Court orders passed in the captioned suit, defendant no. 1 was directed to not make the copyrighted material of the plaintiffs available on the internet in any manner, and not only to Sci-Hub alone.

10.13 He states that defendant no. 1 by these actions has deliberately and wilfully violated the order dated 24.12.2020 and the subsequent orders, whereby defendant no. 1's undertaking has been extended.

10.14 He states that to address ongoing violations, the plaintiffs seek directions to block 'Sci-Hub's' [available at www.sci-hub.ru] and its mirror websites available at www.sci-hub.se And www.sci-hub.st] and 'Sci-Net's' [available at www.sci-net.xyz] access through internet service providers, citing the need for prompt action due to defendant no.1's contemptuous behaviour.

10.15 He relies upon the written submissions filed in support of these averments vide e-diary no. 5818238/2025.

11. This Court has heard the learned counsel for the plaintiffs.

12. Learned counsel for defendant no. 1 on the last date of hearing dated 13.08.2025, had sought time to seek instructions on this application, however, today he submits that he has no instructions from defendant no.1 to make any submissions and has also sought discharge from this matter.

13. He however confirms that the captioned application has been shared with defendant no. 1 and she is aware that the matter is listed for hearing today.

14. The plaintiffs as well have placed on record a copy of e-mail dated

15.08.2025 issued by defendant no. 1 to the plaintiffs, acknowledging the correctness of the averments with respect to the availability of the plaintiff's articles on Sci-Hub and Sci-Net. The said e-mail will be referred to in the latter part of this order. Thus, in these facts it is evident that defendant no. 1 has notice of the hearing and the application.

15. The undertaking of defendant no. 1, which forms the basis of the present application was recorded at the hearing dated 24.12.2020. The relevant portion of the order dated 24.12.2020 reads as under: -

“4. Mr. Amit Sibal, learned senior counsel, who appears along with Mr. Saikrishna Rajagopal, Advocate, on behalf of the plaintiffs, says that the plaintiffs, who have copyright in several medical journals, articles, etcetera have been constrained to approach this Court on account of defendant no. 1/Alexandra Elbakyan and defendant no. 2/gen.lib.rus.ec infringing their copyright.

4.1 According to Mr. Sibal, the infringing activity has been on since 2011 in one form or the other.

.....

6.2 However, given the stand taken by Mr. Sibal, Mr. Jain says no new articles or publications, in which the plaintiffs have copyright, will be uploaded or made available, by defendant no. 1/Alexandra Elbakyan, via the internet, till the next date of hearing.

6.3 The statement of Mr. Jain is taken on record.”

16. The said undertaking is unambiguous and unequivocal. This undertaking was accepted by the Court and continued as an interim direction of the Court in its subsequent orders as noted above. It is a matter of record that the undertaking continues to subsist even as on date.

17. It is admitted that consequently, defendant no. 1 in compliance with the undertaking dated 24.12.2020 and the directions of the Court, had disabled viewing of plaintiff's existing articles from Sci-Hub and did not

upload any new articles/publications of the plaintiffs on the said website.

18. The plaintiffs have placed on record defendant no. 1's e-mail dated 15.08.2025, which is her response to the averments made by the plaintiff as regards to violation of the undertaking dated 24.12.2020. The said e-mail reads as under: -

1. Those few 2022 articles your discovered were made available on Sci-Hub due to technical error. At these moment none of these 2022 articles are accessible from India, and therefore should not be a matter for Indian court.

2. Sci-Net is a different project than Sci-Hub, therefore, a court order not to update Sci-Hub with new articles is not applicable to Sci-Net. Any attempts to apply orders that were initially issued against Sci-Hub to another project, Sci-Net, is both against the rule of logic and against the law.

3. Plaintiffs continuous attempts to cover up massive violation of human rights behind respectable words such as: law, investigations, evidence is disgusting, and deserves nothing except contempt.

4. Although Sci-Net address sci-net.xyz could perhaps be blocked by the court order, I highly doubt it will be applicable to other domains. I will make every effort to ensure continuous and uninterrupted access to both Sci-Hub and Sci-Net services, regardless of any outcome. I would like to warn you that in 2025, censorship-resistant technologies are far more developed than in 2022, so the final result of the blocking order, in case one is awarded to you, might be disappointing.

You can attach this letter to the *evidence* if you wish.]

Alexandra Elbakyan

19. The aforesaid e-mail of defendant no. 1 confirms the averments made in this application. Defendant no. 1 admits that plaintiffs' articles can be viewed on Sci-Hub and on Sci-Net. Defendant no. 1 has sought to assert that Sci-Hub and Sci-Net are distinct websites and therefore, her undertaking dated 24.12.2020 would be inapplicable to Sci-Net. The averments made in the said e-mail also exhibit defendant no. 1's lack of regard for the legal process.

20. On 24.12.2020, defendant no. 1 gave an undertaking to this Court to not to upload plaintiffs' articles on her website Sci-Hub. This undertaking was accepted by the Court and continued as an interim direction. Defendant no. 1 in her e-mail dated 15.08.2025, admits that plaintiffs' articles [published after 2022] have been uploaded on Sci-Net, which is a sister

website of Sci-Hub. The uploading of the plaintiff's articles on Sci-Net and viewability of plaintiff's earlier articles on Sci-Hub constitute a breach of the defendant no. 1's undertaking and the orders of the Court continuing the interim direction.

21. The plaintiffs have demonstrated that enquiries for the plaintiffs copyrighted articles on the website of Sci-Hub directs the user to Sci-Net. The said fact establishes that Sci-Net is being used by defendant no. 1 to overreach her undertaking dated 24.12.2020. Defendant no. 1 as well acknowledges that Sci-Hub and Sci-Net are controlled and managed by her. The unity in the identity of the said websites therefore stands established and Sci-Net is bound by the undertaking dated 24.12.2020.

22. As per the judgment of the coordinate Bench of this Court passed in **UTV Software Communication Ltd. and Others v. 1337x.to and Others** (supra), the classification of the website as a 'rogue' website highlights primary role of such website in facilitating copyright infringement, aligning with several factors for determining the nature of a 'rogue website'. The said judgment emphasizes that such websites often exhibit a blatant disregard for copyright laws, thus prima facie the stringent measure to block the website, as a whole, is justified.

23. Considering the orders⁸ passed by Courts of multiple foreign jurisdiction, wherein defendant no. 1's website Sci-Hub has been found to infringe copyrights by using unauthorized means to access and download literary works belonging to several copyright owners including the plaintiffs', which led to passing of blocking orders against Sci-Hub in 11

⁸ Document nos. 15-27, filed by the plaintiffs along with the plaint

countries; the declaration and introduction⁹ on the homepage of the website Sci-Hub acknowledging piracy; and on the anvil of the illustrative factors (a), (b), (f) and (g) enlisted in paragraph no. 59 of the judgment of the coordinate Bench in **UTV Software Communication Ltd. and Others v. 1337x.to and Others** (supra), this Court is of the prima facie opinion that defendant no. 1's website Sci-Hub and its sister website Sci-Net is a rogue website.

24. In these facts, this Court is satisfied that defendant no. 1's action of uploading and making available for viewing plaintiffs copyrighted articles on Sci-Net as well as Sci-Hub is in violation of the undertaking dated 24.12.2020 and therefore defendant no. 1 is prima facie guilty of contempt.

25. Defendant no. 1 has elected not to appear and failed to give appropriate instructions to her counsel, who represents her in these proceedings. Therefore, the intention of defendant no. 1 is neither to participate and nor to defend herself in these proceedings. The fact that defendant no. 1 is a foreign national seems to make her believe that she is insulated from legal consequences of the violation of her undertaking dated 24.12.2020. However, in these given facts, the Court would have to take appropriate measures for ensuring that defendant no. 1's wilful actions [of violation] do not see fruition within the jurisdiction of the Court.

26. Given the wilful disregard for the undertaking dated 24.12.2020 by defendant no. 1, blocking access to 'Sci-Hub' [available at www.sci-hub.ru and its mirror websites available at www.sci-hub.se and www.sci-hub.st] and 'Sci-Net' [available at www.sci-net.xyz] through internet service providers ['ISPs'] is a necessary and proportionate enforcement measure,

⁹ Screenshot of the Sci-Hub website filed at page 906 of the plaintiff's documents

failure of which may embolden further violations of the plaintiffs' copyrights. Accordingly, following directions are issued: -

26.1 The defendant no. 12 [i.e., DoT¹⁰] and the defendant no. 13 [i.e., MeitY¹¹] are directed to issue a notification calling upon the various ISPs and telecom service providers, registered under it to block access to defendant no. 1 website(s) 'Sci-Hub' available at www.sci-hub.ru [and its mirror websites available at www.sci-hub.se and www.sci-hub.st] and 'Sci-Net' available at www.sci-net.xyz.

26.2 The DoT and MeitY shall also issue blocking orders within 72 hours.

26.3 Upon issuance of such blocking order(s) by MeitY and DoT, the ISPs shall take steps to immediately [within 24 hours] block the said websites in question.

26.4 These directions shall continue till further orders.

27. List for further proceedings on **01.12.2025**.

MANMEET PRITAM SINGH ARORA, J

AUGUST 19, 2025/hp/AM/MG

¹⁰ Department of Telecommunications

¹¹ Ministry of Electronics and IT