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### **Anvar P.V. v. P.K. Basheer (2014): Interpreting Section 65B and the Admissibility of Electronic Evidence in India**

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## INTRODUCTION

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The case of *Anvar P.V. v P.K. Basheer (2014)*<sup>1</sup> is a landmark Supreme Court decision regarding the admissibility of electronic evidence under the Indian Evidence Act. The case primarily deals with the admissibility of electronic records and interpretation of Section 65B<sup>2</sup>. This case clarified the ambiguity with regard to Section 65B compliance while producing electronic evidence. This judgement is also a reflection of the growing role of digital evidence in the Indian legal landscape. This analysis examines the Court's reasoning, evaluates its strengths and limitations and also explores its broader implications.

## FACTS OF THE CASE

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This case was originally an election dispute with the core allegation being the validity of the election result of a constituency in the Kerala Legislative Assembly election. The Appellant wants to set aside the election result alleging the malpractices conducted by the Respondent through his agent during the election propaganda. The Appellant relied on electronic records like CDs and recordings to support his contentions. The electronic evidence was submitted to the court without Section 65B certificate. The Respondent questioned the admissibility of this evidence and reliability. So, when this matter reached the Supreme Court, the core issue was whether such evidence can be admitted or not.

## ISSUES BEFORE THE COURT

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The core issue before the Supreme Court was whether an electronic record produced before a court of law without compliance with the requirements of Section 65B of the Evidence Act, admissible as evidence before that court of law.

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<sup>1</sup> *Anvar P.V. v P.K. Basheer*; (2014) 10 SCC 473.

<sup>2</sup> The Indian Evidence Act, 1872, §65B (India).

## ARGUMENTS OF THE PARTIES

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The Appellant argued, the court should accept the electronic records produced by him even without a Section 65B certificate. His major contention was that even if Section 65B requirements are not fulfilled, the evidence can still be admitted under the general provisions of the Act. He also relied on the judgment of *State (NCT of Delhi) v Navjot Sandhu (2005)*<sup>3</sup>, which allowed flexibility. So, his arguments mainly stressed around the factor that Section 65B is not the only pathway for admissibility.

The Respondent's arguments were centered around the need for strict compliance of Section 65B. He argued that the conditions laid down in Section 65B are mandatory. They also added that since electronic evidence can be easily tampered with, courts should not rely on such evidence without statutory compliance.

## DECISION AND RATIO DECIDENDI

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It was held by the Supreme Court that electronic evidence will be admissible only if it complies with the requirements under Section 65B. So secondary evidence in the form of electronic records submitted in the form of electronic records are inadmissible in the court of law if it is produced without a Section 65B certificate. Key reasonings of the court include (i) Section 65B is a special provision for electronic evidence and hence it must be followed strictly, (ii) one cannot bypass the Section 65B requirements by using Section 63 and 65<sup>4</sup>, (iii) as electronic evidence can be easily tampered with, that certificate will ensure its integrity and it can also be used for source verification. So, certification is needed for authenticity and reliability.

## CRITICAL ANALYSIS OF THE JUDGEMENT

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This judgement reflects a shift in the law relating to admissibility of electronic evidence. It has adopted a strict and formalistic approach under Section 65B. Prior to this judgement, in *State (NCT of Delhi) v Navjot Sandhu (2005)*<sup>5</sup>, it was held by the Supreme Court that Section 65B

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<sup>3</sup> *State (NCT of Delhi) v Navjot Sandhu*, (2005) 11 SCC 600.

<sup>4</sup> The Indian Evidence Act, 1872, §63, 65 (India).

<sup>5</sup> *State (NCT of Delhi) v Navjot Sandhu*, (2005) 11 SCC 600.

certificate is not mandatory, this created confusion due to its inconsistency with the direct interpretation of the section. Hence this judgment removed that ambiguity and brought clarity regarding the mandatory requirement of Section 65B certificate for the admissibility of electronic evidence.

The judgment also reflected upon the weak nature of electronic evidence, as they could be easily tampered with and emphasised how certification ensures authenticity in such situations. By doing so, the Court upheld the legislative intent behind Section 65B as declaring it as a specific provision gave effect to the statutory language originally intended by the legislature and thereby avoided its dilution through general provisions.

Even though the decision of the court and the reasoning behind it is really strong, it poses some weakness too, especially when we view it in a practical sense. Here, the court has adopted an overly rigid approach by making Section 65B certificates mandatory in all cases. This reflects lack of flexibility. There are also some practical difficulties. For example, in real life a person may not always have access to the concerned device, so while producing secondary evidence in such instances it will be difficult to obtain a 65B certificate. This may lead to instances where genuine evidence gets excluded for procedural compliance.

Departing from the Navjot Sandhu judgment, this judgement established clarity. But on the other side, the Navjot Sandhu approach had allowed courts to consider evidence more freely. So this new shift in this judgement did not consider the practical realities. So while the judgment strengthens authenticity its rigid application may negatively impact the administration of justice in situations where strict procedural compliance will not be practical.

### **IMPACT, DEVELOPMENTS, AND IMPLICATIONS**

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This judgement had immediate legal impact across India as it made Section 65B compliance mandatory. Courts across India started insisting on strict compliance leading to frequent rejection of electronic evidence produced without a 65B certificate<sup>6</sup>. It standardized admissibility rules and as a result now legal professionals will have to ensure proper certification, which increased the

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<sup>6</sup> Sakshi Shairwal, Lexology, “Judicial Interpretation of Section 65B over the years,” <https://www.lexology.com/library/detail.aspx?g=641b75d3-3798-4714-894e-f46f7a47a001> (accessed Apr 21, 2026).

technical requirements in evidence collection. This increased reliance on procedural compliance made litigation more documentation-heavy.

Sometimes genuine evidence is also excluded as certificates are not easily obtainable in many situations, especially when third party data like data from telecom companies or third party servers are involved. So this strict approach was later reconsidered in cases like *Arjun Pandit Rao Khotkar v Kailash Kushnarao Gorantyal* (2020)<sup>7</sup>. Overall, this judgement was a shift towards the formalisation of digital evidence law.

### **SUGGESTIONS AND SCOPE FOR REFORM**

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In order to balance procedural compliance with substantive justice, some reformations can reduce the practical challenges arising from the judgement. Instead of making Section 65B compliance absolute in all situations, create flexibility by providing for some exceptional circumstances. Courts should give opportunity to produce alternative methods of proof in circumstances where the party has no control over the device or data. A legislative amendment that provides for exceptions or clarification to Section 65B can also solve this issue.

Courts or other authorities can frame standard procedures for the collection and certification of electronic evidence. This will reduce ambiguity and ensure consistency. Lawyers and judicial officers should be provided with technical training on digital evidence. This fosters understanding and better awareness.

### **CONCLUSION**

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This judgement underscores a significant development in the law relating to admissibility of electronic evidence in India. It brought more clarity and reliability in the application of section 65B and ensured the authenticity and reliability of electronic records. However, a strict approach has created practical challenges which leads to hindering justice in certain situations.

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<sup>7</sup> *Arjun Pandit Rao Khotkar v Kailash Kushnarao Gorantyal*, AIR 2020 SC 4908.