

(2017) 02 BOM CK 0065

In the Bombay High Court

Case No : Public Interest Litigation No. 11 of 2017

Ajaykumar Shankarrao Waghmare

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 06-02-2017

Acts Referred:

Cinematograph Certification Rules, 1983 — Rule 23, Rule 26

Citation : (2017) 3 AIRBomR 226 : (2017) 3 ALLMR 501 : (2017) 2 BCR 662

Hon'ble Judges : S.S. Shinde and K.K. Sonawane, JJ.

Bench : Division Bench

Advocate : Mr. V.D. Salunke Advocate holding for Mr. Panditrao S. Anerao Advocate, for the Petitioner; Mr. Sanjay B. Deshpande, A.S.G, for the Respondents Nos. 1, 2 and 3; Mr. Ravi Kadam, Senior Advocate with Mr. Ashish Kamat, Mr. Ameet Naik, Mr. Madhu Gadodia, Mr. Rahul Mehta, Mr. Himanshu Chaudhary, Mr. Ghansham Kabra Advocate instructed by and with Mr. Dhiraj Jethliya, Advocate, for the Respondents Nos. 4 & 5; Mr. S.G. Karlekar, A.G.P, for the Respondents Nos. 8 and 9

Final Decision : Disposed off

Judgement

Shinde S.S., J.‐Mr. V.D. Salunke, learned counsel appearing for the Petitioner has tendered across the Bar a short affidavit on behalf of Petitioner. The same is taken on record.

2. On 30th January 2017, the Division Bench of this Court (CORAM: V.M. KANADE AND SANGITRAO S. PATIL, JJ.) after hearing the learned counsel appearing for the Petitioner, learned counsel appearing for Union of India, learned Government Pleader appearing for State and learned counsel appearing for Respondent No.4 and after adverting to the grounds raised in the Petition and also the reply filed by Respondent No.4 passed a detailed order, thereby recording the submissions of the counsel appearing for the parties. Therefore, in order to avoid repetition, we do not wish to reiterate the said submissions. By the said order, this Court granted liberty to the Petitioner to convert this Writ Petition as Public Interest Litigation. Accordingly, necessary steps have been

taken by the Petitioner to amend the Writ Petition and convert it as Public Interest Litigation. The additional grounds have been incorporated by way of amendment under the Caption "Grounds Part-II: Amendment Part". Additional prayers are also incorporated taking exception to the certificate issued by the Central Board of Film Certification.

3. By order dated 30th January 2017, this Court appointed a Committee comprising of Amicus Curiae to see a film and submit report to this Court. The members of the Committee so appointed are - Mr. V.J. Dixit, Senior Advocate, Mr., R.N. Dhorde, Senior Advocate and Dr. P.R. Kanade.

4. One of the learned Member of the Committee, learned senior counsel Mr. R.N. Dhorde, mentioned the matter at 10.30 a.m. and tendered across the Bar the report of the Committee. Copies of the said report are served upon the learned counsel appearing for the respective parties. The report of the Committee reads as under:

"Report of Three Members Committee Dated 05.02.2017

After the entire film was viewed by us, we found following scene which according to us is objectionable:-

(1) The screen shot that depict male protagonist approaching to the Dias (between 14.23 to 14.42 minutes) and returning from Dias after dialogue with the learned Judge and immediately thereafter the male protagonist "Signaling" to his client (between 15.00 to 15.15 minutes) as a result of which the client commits further act of throwing the shoe at the learned Judge.

Subsequently in the dialogue between two Lawyers namely the male protagonist and his colleagues, wherein it is said that "Kya Shakkal Ladai Hai" indicates that, this act was preplanned and Lawyer signaling to commit act, according to us is defamatory to the "Lawyer's profession" and would be "contempt of Court".

According to us, the said visual or words involve defamation of body of Lawyer's as the said scene according to us tend to disgrace or undermines the dignity of lawyers and Courts, in view of the Section 5B of the Cinematograph Act, 1956 and Guideline 2(xviii) for Certification of Films of Exhibition."

5. In response to the report of the three Members Committee, learned senior counsel Mr. Ravi Kadam appearing for Respondent Nos.4 and 5, has tendered across the Bar a statement duly signed by Respondent No.5, who is present in the Court. The said statement is taken on record and marked "X" for identification purpose. The said statement reads as under:

" In view of the imminent release of the film "Jolly LLB -2" and steps undertaken in relation thereto, Respondent No.5 offers the following statement, without prejudice to:

(i) The Respondent No.4's objection raised on 30th January, 2017, with regard to the jurisdiction, constitution and appointment of a Committee particularly

when the film has been duly certified by the statutory authority i.e. the CBFC; and

(ii) all his rights and contentions in PIL No.11 of 2017 and SLP (Civil) No.3817 of 2017 including the issue of constitution and the jurisdiction of such Committee.

(iii) Without admitting and whilst denying the Petitioner's case and contents of the Committee's Report dated 05th February, 2017; and

(iv) On the basis that only the four objections noted in the Amicus Curiae Report dated 05th February, 2017 will be considered by this Hon'ble

Court: Dais Scene:

The jumping on and off the dais will be removed. However, the dialogue/ conversation between the protagonist and the judge will be retained.

Signaling:

This will be deleted.

Shoe scene:

The modified scene will now depict the disgruntled litigant venting his frustration. However, the same shall not be shown as being thrown directly on the judge and or landing on the judges table.

Dialogue "Kya Akal Ladaai Hai":

Such a dialogue does not and will not form part of the film.

The issue as to whether the decision of CBFC to certify a film can be subjected to review/ scrutiny by a court appointed Committee is expressly kept open. The order dated 30th January, 2017 and the order dated 06th February, 2017 shall not to be treated as precedents."

6. Relying upon the aforementioned statement of Respondent No.5, learned senior counsel Shri Ravi Kadam submits that, in case this Court is inclined to accept the statement so made by Respondent No.5, Respondent Nos.4 and 5 are ready to abide by the same.

7. Learned counsel Mr. V.D. Salunke appearing for the Petitioner, relying upon the grounds taken in the Petition and also the averments in the additional affidavit in reply and order passed by this Court on 30th January 2017, submits that this Court keeping in view the grounds raised in the Petition and annexures thereto, expressed prima facie opinion that, photographs which are referred therein do indicate total disrespect or disregard to the high office of this Court. Therefore according to learned counsel Mr. Salunke it was incumbent upon the Committee, appointed by this Court, to examine all the ramification of the issues raised in the Petition, keeping in view the order passed by this Court on 30th January 2017. He further submits that, statement placed on record by Respondent No.5 is mere

eye wash.

8. We have given careful consideration to the submissions advanced by the learned counsel appearing for the Petitioner, learned senior counsel appearing for Respondent Nos.4 and 5 and learned counsel appearing for respective Respondents. With their able assistance, we have perused the grounds taken in the Petition, annexures thereto, reply filed by Respondent No.4 and annexures thereto, additional affidavit filed by the Petitioner, statement of Respondent No.5 and other documents placed on record and Judicial pronouncements of the Hon"ble Supreme Court and respective High Courts cited across the Bar.

9. At this juncture, it would be apt to reproduce herein below provisions of Section 5-B of the Cinematograph Act, 1952:

"5-B. Principles for guidance in certifying films.- (1) A film shall not be certified or public exhibition if, in the opinion of the authority competent to grant the certificate, the film or any part of it is against the interests of [the Sovereignty and integrity of India,] the security of the State, friendly relations with foreign States, public order, decency or morality, or involves defamation or contempt of Court or is likely to incite the commission of any offence.

(2) Subject to the provisions contained in sub-section (1), the Central Government may issue such directions as it may think fit setting out the principles which shall guide the authority competent to grant certificates under this Act in sanctioning films for public exhibition."

10. Admittedly, keeping in view the provisions of said Act, 1952, and in particular Section 5-B, the Central Board of Film Certification has issued the certificate to the movie, copy of which is placed on record at Exhibit E (Page Nos.60 to 62) of the compilation of the Petition.

11. In the light of provisions of Section 5-B of the Cinematograph Act, 1952, Certificate issued by the Central Board of Film Certification which is at Exhibit E to the Petition, the report submitted by three Members Committee and also keeping in view the statements made on behalf of Respondent No.4 in his affidavit in reply that the Central Board of Film Certification has granted the permission incorporating the disclaimer, that the movie is work of fiction and for the entertainment purpose and that he has highest regards to this Court and legal system as well as statement made on behalf of Respondent No.5, (contents of which are already reproduced herein above), despite of the reservation of the learned counsel appearing for the Petitioner to the report of the Committee and the statement made on behalf of Respondent No.5, we are inclined to accept the statement made on behalf of Respondent No.5 and allow to make necessary deletion/ modification of the scene, dialogue/ conversation as mentioned in the statement of Respondent No.5 referred supra.

Accordingly, we direct Respondent No.3 Central Board of Film Certification to re-certify the Film, after requisite deletion/ modification in the scene, dialogue/

conversation made in the film, as suggested in the statements on behalf of Respondent No.5, as expeditiously as possible, however not later than 5.00 p.m. of 8th February 2017.

12. We make it clear that we have passed this order in the peculiar facts and circumstances of this case.

13. We appreciate the endeavour on the part of Mr. V.D. Salunke, learned counsel appearing for the Petitioner, and able assistance by the members of the Committee - Mr. V.J. Dixit, senior advocate, Mr., R.N. Dhorde, senior advocate and Dr. P.R. Kanade by utilizing their precious time to watch the movie and submitting the report to facilitate this Court to give correct and appropriate findings on the issue . We appreciate the gesture of the learned senior counsel Mr. Ravi Kadam appearing for Respondent Nos.4 and 5 to consider the suggestions given by this Court during the course of arguments so as to render effective assistance to this Court to dispose of P.I.L.

14. In the light of discussion in foregoing paragraphs, the Public Interest Litigation stands disposed of.

Parties to act upon authenticated copy of this order.