
(2022) 03 TEL CK 0061
In the Telangana High Court
Case No : Writ Petition (PIL) No. 1 Of 2022

Alluri Sowmya

APPELLANT

Vs

Govt. Of India And 6 Others

RESPONDENT

Date of Decision : 15-03-2022

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2022) 03 TEL CK 0061

Hon'ble Judges : Satish Chandra Sharma, CJ; Abhinand Kumar Shavili, J

Bench : Division Bench

Advocate : S A V Ratnam, Rajeshwar Rao

Final Decision : Allowed

Judgement

The present public interest litigation has been filed by the petitioner, who is claiming herself to be a young student, being aggrieved by the release of a movie in the name and style of "RRR".

The contention of the petitioner is that the movie has been produced by D.V.V. Entertainments and it relates to one Martyr Alluri Seeta Rama Raju and it projects that he was under the employment of the British Government as a Police Officer. He has been shown in the uniform of Police Officer. The petitioner's contention is that the image of the freedom fighter is being tarnished by the moviemakers by projecting incorrect things about him and in those circumstances, the following prayer has been made by the petitioner:-

"For the reasons stated in the accompanying affidavit, the petitioner prays that this Hon'ble court may be pleased to issue a suitable writ, order, or direction, more particularly one in the nature of a writ of mandamus declaring the picturisation of the life history of two legendary patriots, i.e., Martyrs Alluri Seetaram Raju and Komaram Bheem contrary to their lifestyle in the film "R.R.R. Roudram, Ranam and Rudhiram" as illegal and arbitrary and consequently direct the Respondents 1 to 3 not to issue censor certificate to the Film "R.R.R.

(Roudram, Ranam, and Rudhiram)" by preventing the Respondents 4 to 6 to release/screen the movie as per the scheduled date 07-01-2022 and pass such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case."

A detailed and an exhaustive counter affidavit has been filed in the matter by the Central Board of Film Certification and it has been stated that the Censor Board constituted under the Cinematograph Act, 1952, provides the detailed procedure for grant of Censor Certificate and the film in question is a work of fiction and in a work of fiction certain cinematic liberties are permitted. It has also been stated that even if the contentions of the petitioner are accepted, the characters of Alluri Seeta Rama Raju and Komaram Bheem are portrayed as highly patriotic. It has further been stated that the film talks about the historical authenticity.

A Division Bench of the Bombay High Court in the case of Hiten Dhirajlal Mehta v. Bhansali Production (PIL (L) No.4336 of 2022 and connected matter, decided on 23.02.2022) has held as under:- (paras 23 to 38)

"23. The trailer of the film was released on 4th February, 2022. Apart from PIL(L).No.4336 of 2022, which was presented on 10th February, 2022, PIL (L) No.5227 of 2022 and WP(L) No. 5235 of 2022 were instituted on 21st/22nd February, 2022. It is, therefore, clear that the petitioners in PIL(L) No. 5227 of 2022 and WP(L) No. 5235 of 2022 approached this Court more than a fortnight after the trailer was released. In the meanwhile, the petitioners did not choose to look into the relevant law for the purpose of ascertaining whether the Act and the Rules provide for any remedy to them, with the result that the statutory remedy remains unexplored. Instead of approaching this Court seeking discretionary remedy, which may be refused if an efficacious alternate remedy is available but is not pursued, the petitioners ought to have pursued the remedy that Rule 32 granted to them. There is no pleading at all as to why the statutory remedy is not efficacious. The rule of exhaustion of an efficacious alternative remedy applies also in a public interest litigation as it does in respect of a litigation initiated in private interest. If any authority is required, one may usefully refer to the decision in Jaipur Shahar Hindu Vikas Samiti vs. State of Rajasthan ((2014) 5 SCC 530), where it has been held as follows:

"49. *** In the realm of public interest litigation, the courts while protecting the larger public interest involved, should at the same time have to look at the effective way in which the relief can be granted to the people whose rights are adversely affected or are at stake. When their interest can be protected and the controversy or the dispute can be adjudicated by a mechanism created under a particular statute, the parties should be relegated to the appropriate forum instead of entertaining the writ petition filed as public interest litigation."

(emphasis supplied)

This is the first and foremost reason for which we decline interference,

24. For the view we have taken as above, we can also draw support from the unreported decision dated 9th November, 2017 of a Division Bench of the Allahabad High Court in the case of Kamta Prasad Singhal vs. Union of India & Ors. (PIL Civil No.26899/2017) relied on by Mr. Kadam.

25. Secondly, it has been contended by Mr. Kadam and Mr. Singh, relying upon several decisions of the Supreme Court, that once the Board exercises the power of certification with or without direction(s) for modification(s) and the producers of the film, without appealing against such direction(s), accept the same, proceed with the modification as directed and, ultimately, a certificate is issued, there can be no prohibition for the film to be exhibited unless, of course, the certificate issued by the Board is challenged and the Court stays its operation. The petitioners in PIL(L) No. 5227 of 2022 and WP (L) No. 5235 of 2022 not having laid any challenge to the certificate issued by the Board, Mr. Kadam and Mr. Singh contend that it would be an exercise in excess of jurisdiction if we were to make any direction as prayed for by the petitioners. We may, at this stage, refer to the order of the Supreme Court in Viacom 18 Media Private Limited & Ors. vs. Union of India & Ors.((2018) 1 SCC 761) placed by Mr. Kadam. Although it was an interim order passed by the Supreme Court staying operation of the notifications and orders issued by the respondents-States prohibiting exhibition of the film "Padmaavat", paragraph 16 thereof provides suitable guidance reading as under:

"16. It has to be borne in mind, expression of an idea by any one through the medium of cinema which is a public medium has its own status under the Constitution and the statute. There is a Censor Board under the Act which allows grant of certificate for screening of the movies. As we scan the language of the Act and the Guidelines framed thereunder, it prohibits use and presentation of visuals or words contemptuous of racial, religious or other groups. Be that as it may. As advised at present, once the certificate has been Issued, there is prima facie a presumption that the authority concerned has taken into account all the Guidelines including public order."

(emphasis supplied)

26. The certificate granted by the Board on 30th December, 2021, we are inclined to hold, carries with it a presumption that it owes its existence to adherence to the rigorous procedure prescribed by the Rules read with the Guidelines for Certification of Films for Public Exhibition (hereafter "the Guidelines") issued in exercise of power conferred upon the Central Government by section 5-B(2) of the Act. Though a presumption is indeed rebuttable, there is no iota of material in PIL(L) No. 5227 of 2022 and WP (L) No. 5235 of 2022 that certification of the film was granted by the Board without adhering to the Rules/Guidelines. Pertinently, we have not found any reference in the pleadings that any provision of the Act, the Rules and/or the Guidelines have been observed in the breach in granting certification for public exhibition of the film. The petitioners in PIL(L) No. 5227 of 2022 and WP (L) No. 5235 of 2022 have also

not alleged any violation of their rights, either Fundamental, other Constitutional or statutory right. This being the position of the pleadings, grant of relief is a far cry.

27. Even though the Court may form a view one way or the other with regard to depiction of any particular area in particular way, or if any material is present or shown in a film which seeks to denigrate a particular community, it would be impermissible for the Court to interfere in the absence of any challenge to the certification of the film for public exhibition granted by the Board. We are inclined to take a view, on the authority cited, that once a certificate is issued by the Board upon securing compliance of its directions for modifications either in the form of excision/deletion/substitution etc., as in the present case, there cannot be any kind of obstruction for exhibition of a film which is certified. Public exhibition can only be restrained by the Central Government if an approach is made under Rule 32 of the Rules read with section 6 of the Act or upon a challenge being mounted to the certificate before a Court exercising jurisdiction under Article 226 of the Constitution and obtaining a stay of the certificate. Once the film is granted certificate by the competent statutory authority, i.e., the Board, the producer or distributor of the film has every right to exhibit the film in a hall unless, of course, the said certificate is modified/nullified by a superior authority/Court. Any move of any body, group, association or individual to assume the position of the certificate granting authority has to be discouraged and nipped in the bud.

28. We, therefore, are of the clear opinion that the objections to the maintainability of the petitions are well founded.

29. Notwithstanding our findings as above, we have looked into the merits of the challenge raised by the petitioners in PIL(L) No. 5227 of 2022 and WP(L) No. 5235 of 2022. The objection is two-fold: (i) the title of the film qua "Kathiawadi"; and (ii) depiction of "Kamathipura" as a red light area. Materials have been placed before us by Mr. Kadam which we need to briefly refer hereunder.

30. Mr. Kadam has submitted that the film is based on the chapter "The Matriarch of Kamathipura" from the book "Mafia Queens of Mumbai" written by S. Hussain Zaidi and Jane Borges. Due to paucity of time, the entire chapter could not be perused by us. However, a cursory glance reveals this. At page 66 of the book, we find that Ganga Harjeevandas Kathiawadi was brought up in the village of Kathiawad in Gujarat. At page 71, we find narration of events/incidents at a point of time when Ganga became Gangu while deciding to do away with everything from her past. At page 72, we find that Gangu became one of the most sought-after and well-paid commercial sex worker in Kamathipura. In her later life, Gangu came to be known as Gangubai, the Matriarch of Kamathipura. A portion of the book, page 79, has been relied on by the petitioner in PIL(L) No. 5227 of 2022 and we quote the same below:

"Gangu was now called Gangubai Kathewali, a distorted version of the word

kothewali, which also means 'performing sex workers'. Gangubai chose to call herself Kathewali, a last remaining association with her family name, Kathiawadi."

31. If indeed the film is based on the book referred to above and Gangubai Kathiawadi discarded using the surname Kathiwadi and used Kathewali instead, it may have been advisable if the title of the film was sans Kathiawadi; however, once again, it is not the function of the Court to make any direction of the nature sought for by the petitioner in PIL (L) No. 5227 of 2022 in the absence of a challenge to the certificate granted by the Board.

32. Mr. Kadam has also placed material downloaded from the net that Kamathipura, once upon a time, was synonymous with the phrase 'red light district' originally named after the Kamathi workers from Andhra who came to the city of Mumbai from 1795 and settled in the flat areas which were rendered liveable by the construction of the Hornby Vellard.

33. Paragraph 3 of the Guidelines needs to be referred to in this context. It reads as follows: -

"3. The Board of Film Certification shall also ensure that the film -

(i) is judged in its entirety from the point of view of its overall impacts; and

(ii) is examined in the light of the period depicted in the film and the contemporary standards of the country and the people to which the film relates, provided that the film does not deprave the morality of the audience."

34. We have to presume that the Board prior to granting certification ensured that the film has been judged and examined in the light of the contents of clauses (i) and (ii) of paragraph 3 of the Guidelines. An audience gathering to view the film has to see the events bearing in mind the period to which such events relate. If "Kamathipura" was a red-light district at any point of time prior to the nation gaining independence or immediately thereafter, and is so referred to in the film, that would not automatically lead to the conclusion that the area remains to be so even after several decades of independence. The developments that have taken place over the years in the area cannot be ignored and an opinion of the nature be formed, which the petitioners apprehend, so as to warrant interference and for making directions in the manner as prayed by the two petitioners.

35. What remains to be dealt with is the contention of Ms. Kapadia that there is no disclaimer. Mr. Kadam has placed before us and we wish to refer to the disclaimer that the Board has required the producer of the film to exhibit on screen. Such disclaimer reads as follows: -

"GANGUBAI DISCLAIMER

The Film is based on the chapter "The Matriarch of Kamathipura" from the book "Mafia Queens of Mumbai" written by S. Hussain Zaidi and Jane Borges. The Film doesnot intend to be a biography of any character depicted therein, therefore the

Film should not be construed to represent true and accurate depiction of the actual life events that transpired in the life of "Gangubai" or any other character(s) in the Film and any resemblance to reality is purely coincidental and unintentional. Some of the incidents, characters, events, etc. contained in the Film have been changed and altered for the dramatic/cinematic appeal and effect. Any mention of community, language, or religion in the Film, is not intended to inflict contempt at any point. The Film shall be purely viewed for purpose of entertainment and is not designed to hurt or disdain any individual(s), family, religion, community(ies), institution(s) or any organization.

The Filmmaker, the producers, do not intend in any manner to belittle, disrespect, impair or disparage the beliefs, feelings, sentiments and susceptibilities of any character in the Film or any person(s), community (ies), society(ies)."

This takes care of Ms. Kapadia's grievance.

36. We also find from the certificate that the duration of the disclaimer has been directed to be extended by an additional five seconds. Mr. Kadam has informed that the disclaimer would be visible on screen for ten seconds. We took not less than 20 seconds to read the disclaimer in print. It would have been advisable for the Board to direct the disclaimer to be projected on screen for a longer duration but, once again, no direction in this behalf can be given by this Court having regard to what is said by the Supreme Court in paragraph 18 of its decision in *Adarsh Cooperative Housing Society Limited vs. Union of India & Ors.* ((2018) 17 SCC 516). According to such decision, the Court should not add any disclaimer for the asking since addition of a disclaimer is a difference concept altogether which is within the domain of the authority to grant certificate.

37. We have considered the decisions of the High Court of Delhi at New Delhi in *Maulana Mahmood Asad Madani vs. Union of India & Ors.* (W.P.(C) 7554/2012) decided on 24th January, 2013 and *Crossword Entertainment Private Limited vs. Central Board of Film Certification & Ors.*(W.P (C) 11992/2016) decided on 11th December, 2017 cited by Ms. Kapadia. Since the dispute before the Court arose out of completely different circumstances, the law laid down therein is not found to be applicable here.

38. For the reasons aforesaid, Public Interest Litigation (L) No. 5227 of 2022 and Writ Petition (L) No. 5235 of 2022 stand dismissed. No costs."

In the present case, there is no challenge to the censor certificate granted in the matter and otherwise also, the Cinematograph Act, 1952 empowers the Central Government under the revisional powers to suspend the exhibition of any film. This Court, in the light of the availability of the remedy of appeal to the petitioner, especially in the light of the fact that the validity of the censor certificate is not under challenge, does not find any reason to grant relief to the petitioner in the public interest litigation.

The public interest litigation is accordingly dismissed.

The miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.