
(1996) 12 AP CK 0080

In the Andhra Pradesh High Court

Case No : Writ Petition No. 23395 of 1996

Anonymous letter-un-signed

APPELLANT

Vs

The Commissioner of Police and Others

RESPONDENT

Date of Decision : 26-12-1996

Acts Referred:

Andhra Pradesh Cinemas (Regulation) (Amendment) Rules, 1983 — Rule 11B(2)
Andhra Pradesh Cinemas (Regulation) Act, 1955 — Section 10, 3, 8
Andhra Pradesh Cinemas (Regulation) Rules, 1970 — Rule 12(2)
Cinematograph Act, 1952 — Section 5A, 5B, 5E
Constitution of India, 1950 — Article 14, 15(2), 51A

Citation : (1997) 2 ALD 125 : (1997) 1 ALD(Cri) 333 : (1997) 1 ALT 481

Hon'ble Judges : P.S. Mishra, C.J.;V. Rajagopala Reddy, J

Bench : Division Bench

Advocate : K.G. Kannabiran, Amicus Curiae, for the Appellant; A.G. for Respondent No. 1 and L. Ramchander, for the Respondent

Judgement

P.S. Mishra, C.J.—A letter, although unsigned and with uncivilized references to a Member of Legislative Assembly but containing informations of screening of blue/obscene /vulgar films or film clippings, has been received in Court and treated as a petition under Article 226 of the Constitution of India. Following the receipt of the said letter, the Court instructed two learned Advocates of this Court Mrs. Sumalini Reddy and Mrs. G. Jyothi Kiran to witness the two films "Dark Dancer" and "Secret Games - 3" in Ramakrishna 70 MM, one of the Theatres in the City, which allegedly was exhibiting the films, and report to this Court. Learned Advocates have reported to the Court that as per the instructions of the court, they visited the Theatre at Abids at 11.45 A.M. and narrated the events in these words:

We approached the Booking counter of Rs. 20/- and asked for tickets. The Booking clerk first informed us that it is an English movie and it is not meant for ladies to view. When we insisted for tickets, he asked us to come inside the booking room from the main entrance of the theatre. When we were entering the

theatre, the gate-man informed us that ladies are not permitted as it is a "SEX MOVIE". However, we walked into the booking room. Booking clerk issued us Box-A tickets and further asked us to see the Manager before taking seats. We did not see the Manager but directly went to Box-A and took seats. Even the Box-A doorman asked us to leave the theatre advising us that we being ladies cannot see it as the movie is a "SEX MOVIE". When the movie began at 12.00 P.M. simultaneously the Manager along with two men switched on the lights in Box-A and asked us to leave the hall immediately. Since he repeatedly insisted us to leave, we both came out of Box-A. On coming out we enquired as to why we should not see the movie, to which the Manager replied that it is a "BF". On asking for further clarification of "BF", the Manager stated that it means "BLUE FILM". When we asked him to identify himself, he informed us that he is Mr. Prasad, Manager of the Theatre, as such he has every right to ask us to leave. When we asked as to how it was not advertised that the movie is meant for men only, he retorted that "It is understood that whenever English movies are played in this theatre, ladies are strictly not permitted." As such we were forced to leave the theatre immediately."

Learned Advocates also produced before the Court two dress circle tickets which they had purchased. The Court after the report by the learned Advocates on 2-11-1996 ordered as follows:

"From a perusal of the contents of the representation and the above report of the Duty Counsel appointed by the court under Reg. No. 23 of A.P. State Legal Services Authority Regulations, 1996 we are satisfied that it is a fit case for an immediate order of suspension of all shows at the RAMAKRISHNA 70 MM THEATRE AT ABIDS CENTRE IN THE CITY OF HYDERABAD until further orders and to direct the Commissioner of Police to seize immediately the film exhibited at 12.00 Noon on 2-11-1996 including all the prints of the concerned film and any other film likely to be exhibited in the said theatre and to produce the same before this Court.

Mr. Kannabiran, the learned Senior Advocate and the President of the High Court Advocates Association has consented to appear Amicus Curiae for the petitioner.

Let notice issue to the Proprietor of RAMAKRISHNA 70 MM THEATRE AT ABIDS CENTRE, HYDERABAD AND THE MANAGER OF RAMAKRISHNA 70 MM THEATRE AT ABIDS CENTRE, HYDERABAD: and The Commissioner of Police, Hyderabad City to show cause why appropriate order/direction be not issued to cancel the licence issued to the said theatre under A.P. Cinema Regulation Act/ Rules framed thereunder and the Cinematograph Act/Rules framed thereunder and to prosecute the Proprietor and other persons concerned with the distribution and exhibition of the alleged obscene/vulgar movies in the said theatre in accordance with law.

The Commissioner of Police is directed to obtain information as to the Producer and the distributor of the concerned films and to suspend the licence for

exhibition of films in RAMAKRISHNA 70 MM THEATRE-ABIDS CENTRE, HYDERABAD with immediate effect and stop exhibition of any films therein with immediate effect and to seize all prints of the films and produce the same before this Court.

RULE is made returnable within two weeks. The Commissioner of Police, Hyderabad City is directed to report compliance of the order by 4-11-1996 at 10.30 A.M."

As directed above, the Commissioner of Police, Hyderabad City got the prints of the above mentioned two films as well as other films and clippings seized and has since submitted report to the Court. When further hearing of the case was taken up on 7-11-1996, it transpired that the seized films were required to be deciphered in more than one ways to verify, "Whether they are exhibited strictly in accordance with the censor certificate; whether there is any tampering; whether there is any other device or contrivance to interpolate or intermingle blue films with any otherwise innocent-looking film, and the modus operandi in respect of which serious complaints have been made." The Court accepted the suggestion at the Bar of the film and clippings being viewed by certain eminent persons and social workers in the City as well as by the Members and Officers of the Central Board of Film Certification. The Court on 27-11-1996 accordingly ordered as follows:

"Learned Counsel Amicus Curiae has submitted a list of persons who, in his opinion, can give the required information as to the vulgarity and/ or obscenity in the films "Secret Games-3", "Dark Dancer" and other pieces of films seized from the custody of the second and third respondents herein. It is necessary, however, before any further order is passed, that the film is shown to the persons named in the memo filed by the learned Counsel Amicus Curiae on 12-11-1996 and such other persons, who can opine whether there is any cutting and/or pasting of any blue film and whether the films seized are all cleared by the Censor Board. For the said purpose, let direction issue to the first respondent herein to forthwith contact the persons concerned with granting certificate for exhibition to the above mentioned films, fix a date for the viewing of the films by such experts as nominated by the Censor Board authorities and the persons named in the memo submitted by the learned Counsel Amicus Curiae within one week and submit a report of the views of the persons who witness the show at such theatre which in his opinion is fit for such limited exhibition. The Commissioner of Police shall inform all concerned of the date and time of the exhibition of the films. Counsel appearing for either party can secure the views of the viewers and file their respective affidavits."

A report has been submitted duly signed by Regional Officer, Central Board of Film Certification, Hyderabad and three Regional Advisory Panel members - Sri V. Madhusudan, Smt. M.K.R. Ashalatha and Smt. M. Saralarani, which reads as follows:

"The report of the Regional Officer, Sri K.R. Rao, & members of the regional advisory panel of the Central Board of Film Certification, Hyderabad, Viz., Sri V. Madhusudan, Smt M. Saralarani & Smt. M.K.R. Ashalata, who viewed the screening of the films, "Secret Games 3", "Dark Dancers" and other miscellaneous pieces of films, seized by the police from the custody of M/s Ramakrishna Theatre, Hyderabad is as follows. The above films were viewed alongwith master video copies of "Secret Games 3" and Dark Dancers", censored by Mumbai CBFC Office and sent to Hyderabad censor Office for the purpose of finding interpolations, cuts etc. in the films.

"SECRET GAMES 3":- Seen on 7-12-96 from 3 p.m. to 6 p.m. Censor Board granted "A" certificate.

In the first part (reel Nos. 1 & 2) of the screening of the seized film, there is an interpolated scene, in which the completely bare breasts of a female character are rubbed and massaged in a titillating way by a male character for sometime. This scene does not figure in the master video copy, which was censored by the CBFC, Mumbai and screened simultaneously exposing bare breasts elaborately quite frequently in the seized film. There is also a scene of bare bodied female dropping her only piece of dress, i.e., underwear to the ground, in the seized film. Apart from these aberrations, the scenes in seized film are not in the same order as that of the censored master copy and sometimes does not match at all with the master copy. There is also a scene showing embrace of naked male and female and such interpolations occurred in the seized version.

"DARK DANCERS":- Screened and viewed on 9-12-96 alongwith some miscellaneous pieces of other films from 3 P.M. to 7 P.M. Censor Board granted "A" Certificate.

After the seized film, "Dark Dancers" was completely screened until "End", other seized film spools containing a lot of untitled film pieces including Hindi and Telugu feature films, Films Division news magazines and miscellaneous films were also run on the screen. It was then found that a portion of the film "Dark Dancers", cut off from main film, was found in the middle of the miscellaneous films. Thus the seized film was not an exact copy of the master video copy of the film censored by Mumbai censor office and sent to our office for comparison purpose.

In the seized film, there is a scene showing dancers in a club where there is continuous exposure of bare female breasts more prominently and more prolongedly than the censored version. There is also a scene in the seized film showing a male thrusting his head in between the thighs of a female, which scene does not appear in the censored version.

Titillating scenes are shown in the seized film in a more pronounced way elaborately. The running of the censored master video copy and the seized film did not correspond with each other and visuals in seized version were more and the order of the film in censored copy and seized film is sometimes topsy turvy.

Screening of miscellaneous films on 10-12-1996 from 3.00 P.M. to 4.30 P.M.

The film pieces are a hotch potch of short films, advertisement films, party propaganda films, Hindi and Telugu feature film bits. Most of these films have not exhibited the censor certificate. There are 30 pieces of miscellaneous films, including an English movie bit, as stated above, unrelated to "Secret Games 3" and "Dark Dancers".

The panel members, selected on the basis of the consensus at the Bar, -Sri C. Dharma Rao, Smt. Abburi Chaya Devi, Sri Chekuri Rama Rao, Sri A. Kutumba Rao, Smt. Bina Devi, Smt. N. Beena and Smt. Volga, have reported as follows:

"As per the orders of the Hon"ble High Court, Andhra Pradesh, Hyderabad in W.P. No. 23395/96, we the undersigned witnessed the English movies viz., 1. Secret Games III, (2) Dark Dancer, and other pieces of films seized from the custody of M/s. Ramakrishna 70 mm theatre, Abids, Hyderabad. We witnessed the said films on 7-12-1996, 9-12-1996 and 10-12-1996 respectively at preview theatre, A.P. Film Development Corpn. A.C. guards, Hyderabad, during the afternoon on each day mentioned above.

After viewing the above mentioned two English films and other pieces of films (the two English films viewed on the big screen and the censored master copies of the same films simultaneously on the T.V. Screen). We have the following observations to submit to the Hon"ble High Court.

1. Film viewed on 7-12-1996: Secret Games-III:

(i) While showing the titles, man and woman were shown naked in an intimate pose, naked breasts were shown of a woman in the bath tub - much more than in the master copy. The portion is downright obscene with the male character repeatedly squeezing the breasts of the female character in a hot mood.

(ii) Scenes of a woman being undressed by a man and the naked body of the woman - back and front views - were interpolated in the film which were not in Censored Master copy;

(iii) On the whole, the film was not in continuation many loose cut pieces were shown mostly consisting of sexy and vulgar scenes.

II. Film viewed on 9-12-1996: Dark Dancer:

(i) Some scenes shown in the film were not the same as in the censored master copy - normal scenes were replaced by sexy scenes;

(ii) One is highly suggestive of cunnilingus, though the female organ is not shown. Another portion contains compromising and copulatory postures with male member sweating and swinging to and fro.

(iii) Brutal murder scene and some sexy scenes were there in the film shown in the theatre as well as in the Censored Master copy; sounds in the bed room scene were suggestive and vulgar.

(iv) On the whole, the film shown in the big screen was not in continuation, it was in pieces (the last part was found later in a separate box).

(v) Other film pieces: One bundle consisted of twenty reels - big and small - cut pieces of films. These mainly consisted of parts of some Telugu and Hindi films, Telugu and English documentaries, Telugu and English advertisements; and

One strip from an English movie - some music show, dialogues and fight scenes, and a strip containing the last portion of the film "DARK DANCER".

III. Film pieces viewed on 10-12-1996.

Another bundle consisted of thirty reels - big and small - cut pieces of films.

These consisted of strips from Telugu, Hindi and English movies (cuts) and pieces of Telugu documentaries and advertisements. Nothing obscene was there except one scene of brutal violence in an English film. On the whole, the two main English films viz., "SECRET GAMES - III" and "DARK DANCER" were found to be different from the Censored Master Copies, because-

(i) they were tampered with at many places - cut in between; in the censored portions of the film uncensored bits of vulgar scenes were introduced.

(ii) the continuity of the story in each film was disturbed due to several cuts and interpolations; and

(iii) the length of the films shown in the theatre screen was less than that of the censored master copies and they were shorter in duration.

GENERAL COMMENTS:

Even the Censored Master copies of the films "SECRET GAMES III" and "DARK DANCER" contains provocative and even vulgar dances and scenes. No useful purpose is served by censoring a few feet of films here and there, when the intent and import of the films is to show hard or near-hard pornography. The only course proper is not to permit entry into the country for such films which prima facie may be classified hard or near-hard."

After receiving the above reports and after a further hearing, the Court on 16-12-1996 passed the following order:

"Reports of the panel members appointed by the Court to view seized films from Ramakrishna 70 MM Theatre and of the Regional Officer and Members of the Regional Advisory Panel of the Central Board of Film Certification, Hyderabad who viewed the screening of films "Secret Games III" and "Dark Dancer" and other miscellaneous film pieces on 7th, 9th and 10th of December, 1996 have since been received. These reports clearly show that the two films, which were being exhibited in the Theatre when seized, did not correspond to the censored versions which alone could be exhibited by any Theatre and contained several such portions which can easily be described as hard or near-hard pornography. Learned Counsel for the respondents, however, has sought adjournment. Learned

Counsel for the respondents is permitted to peruse the report of the Regional Officer and Members of the Regional Advisory Panel of Central Board, Film Certification, Hyderabad.

The above added to the informations furnished to the Court by concerned citizen, which form part of the record of the instant proceeding, are enough to persuade us to direct the Commissioner of Police to call a meeting of all such persons who have obtained licence for exhibition of films either under the Cinematography Act or under A.P. Cinema Regulation Act as well as distributors of the films for impressing upon them - (1) that only duly censored films and certified for exhibition films are distributed and exhibited by them; and (2) when any film is certified for adults only, and person who is not an adult is not permitted to enter the Theatre and witness the film, whether he is accompanied by any adult or without any such company and to suggest the ways and means to ensure that Cinema Theatres and other persons who are exhibiting cinematograph films do not violate the above. The Commissioner of Police, Hyderabad City is directed to convene a meeting as above within one week and send the report on the above to this Court before the next hearing date."

Pursuant to the above direction, the Commissioner of Police, Hyderabad convened a meeting of all the exhibitors, distributors of films in the limits of Hyderabad Police Commissionerate at 3 P.M. on 20-12-1996. As many as Seventy (70) licensees/ exhibitors of Cinema theatres and Thirty three (33) distributors of films, besides five (5) Officials of the Police, participated in the meeting. The proceedings of the said meeting are forwarded by the Commissioner of Police and it is as follows:

"In pursuance of the directions given by the Hon"ble High Court of A.P., dated 16-12-1996 in W.P. No. 23395/96 a meeting of all Exhibitors (Cinema theatre licensees) and Distributors located within the limits of Hyderabad City Police Commissionerate, has been convened on 20-12-96 at 2.00 P.M. in the Conference Hall of the Office of the Commissioner of Police at Purani Haveli, Hyderabad to discuss the directions given by the Hon"ble High Court of A.P. that (1) duly Censored films and certified for exhibition films are distributed and exhibited by them and (2) when any film is certified for adults only, any person who is not adult is not permitted to enter the theatre and witness the film, whether he is accompanied by an adult or without any such company.

2. At the outset, the Commissioner of Police outlines the need to enforce the conditions stipulated under the Cinematograph Act and the licence conditions laid down in Form-B, issued under Sub-rule (2) of Rule 12 of the APC (R) Rules, 1970, particularly, ways and means of preventing the exhibition of obscene portions of films and preventing admission of minors to the adult films by the Cinema theatre owners/managements.

3. The film exhibitors i.e., the Cinema licencees assured the Commissioner of Police that they would exhibit the films which had been certified as suitable for

public exhibition by the Central Board of Film Certification and that they would not permit or show objectionable portions which had been deleted by the Central Board of Film Certification and display obscene posters. They agreed to exhibit the Censor Certificate and information about the deleted portions of the Scenes of the film. To overcome the difficulty in the use of the general Cinema tickets at the time of screening of adult films, it was agreed that the ticket books would be stamped indicating that the movie was meant for "adults only". At the time of commencement of the show, if it is discovered that any person, not an adult, has sneaked into the Cinema theatre or come to witness the film, the exhibitor (Cinema licensee/Management) would turn him out by refunding the ticket amount.

4. It was also emphasized on the licensee of the Cinema theatres that they should not display or cause to be displayed any photographs, pictures, posters, which depicts or represents a scene or shot, which had been excised from any film under the orders of the Central Board of Film Certification. Further they should not permit obscene or objectionable posters or pictorial publicity material being displayed in the licenced premises as well as at public places.

5. It was explained by the Commissioner of Police, that under the Indecent Representation of Women (Prohibition) Act, 1986, no person shall publish or arrange or take part in the publication or exhibition of any advertisement which contains indecent representation of women in any form. The violators will be punished Under Sections 3 or 4 of this Act with two years of imprisonment and with fine, which may extend to Rs. 2,000/- on first conviction. They can be prosecuted by booking an F.I.R. case and not a petty case. These instructions are applicable even for display of objectionable posters and boarding implying figures not properly dressed and held as pornographic and would attract the same penalties.

6. The theatre licencees as well as film distributors have finally agreed to abide the above conditions explained by the Commissioner of Police, scrupulously.

7. The Commissioner of Police also discussed with the film exhibitors i.e., the theatre licencees some other matters relating to strict implementation of other conditions laid down in the Licence Form-B of the A.P.C. (R) Rules such as:-

1. Prevention of Black-marketing.
2. Regulation of Traffic at the beginning and end of each show by appointing traffic wardens by the Theatre Management.
3. Staggering of show timings, particularly, in respect of the Cinema theatres located at busy Cross-roads where flow of traffic is very heavy.
4. Erection of barricades on the footpaths of the roads in front of the theatres by leveling the footpaths with "shabad" stones or cementing them at their own cost.
5. Maintenance of temperature ranging between 76 and 80 F., in the Cinema

auditorium during exhibition of the shows, providing more comforts to the Cine-goers, etc.

8. The theatre licencees have assured the Commissioner of Police to fulfill, the above requirements and also curbing Black-marketing of Sale of Cinema rickets. They also assured to extend their full co-operation to Police Officers in maintaining smooth flow of Traffic by not allowing "thela bandies", wrong parking of autos etc., in front of their theatres especially on busy roads.

9. At the end, the Commissioner of Police, Hyderabad City, while thanking the exhibitors and the distributors for extending their fullest support in implementing the Cinema licence conditions and also the directions of the Hon'ble High Court of Andhra Pradesh, once again sought the co-operation from them and concluded the meeting."

2. The second and third respondents i.e., Proprietor and the Manager of the Theatre, who initially filed a petition to vacate the interim order of suspension of any exhibition of the films in the theatre, have, however, in view of the above reports, submitted themselves to the discretion of the Court and stated whether knowingly or unknowingly the theatre has been found exhibiting "Secret Games 3" and "Dark Dancer" films with cuts and interpolatins, which were not corresponding the censored master copies and were screened after normal scenes were replaced by sexi scenes, which, in the opinion of the panel members as well as the members of the Regional Advisory Panel of the Central Board of Film Certification, were hard or near-hard pornography and they tendered unqualified apology.

3. Cinematograph Act XXXVII of 1952 and the Andhra Pradesh Cinemas (Regulation) Act, 1955 together operate and take care of the certification of cinematograph films for exhibition and for regulating exhibitions by means of cinematograph. Section 3 of the latter Act provides, "save as otherwise provided in this Act, no person shall give an exhibition by means of a cinematograph elsewhere than in a place licensed under this Act or otherwise than in compliance with any conditions and restrictions imposed by such licence." The Act in other parts provides, who the licensing authority would be, what would be the restrictions of powers of licensing authority etc. Section 8 thereof provides, inter alia, that the Government in respect of the whole of the State or any part thereof, and the District Collector in respect of any area within the local limits of his jurisdiction may, if it or he is of opinion that film which is being publicly exhibited is likely to cause a breach of the peace, by order, suspend the exhibition of film, and during such suspension no person shall exhibit such film or permit it to be exhibited in the State or in such part thereof, or in such area, as the case may be. Section 10, however, states, "Where the holder of a licence has been convicted of an offence u/s 7 of the Cinematograph Act, 1952 or Section 9 of this Act, the licence may be revoked by the licensing authority; if the licensing authority is satisfied, either on a reference made to it in this behalf or otherwise, that -(a) a licence granted under this Act has been obtained by

misrepresentation or fraud as to an essential fact, or (b) the licensee has, without reasonable cause failed to comply with any of the provisions of this Act or of the rules made thereunder, or any of the conditions or restrictions upon or subject to, which the licence has been granted, the licensing authority may, after giving the licensee an opportunity of showing cause, revoke or suspend the licence, subject to appeal to the Government." Part II of Cinematograph Act, 1952 provides for Certification of Film for Public Exhibition and for the establishment of the regional centres and appointment of Advisory panel and contains two provisions, which are introduced by the Cinematograph (Amendment) Act, 1981 in Sections 5-A and 5-B, which read as follows:

"5-A. Certification of films:-

(1) If, after examining a film or having it examined in the prescribed manner, the Board considers that-

(a) the film is suitable for unrestricted public exhibition, or, as the case may be, for unrestricted public exhibition with an endorsement of the nature mentioned in the proviso to Clause (i) of Sub-section 4, it shall grant to the person applying for a certificate in respect of the film an "U" certificate or, as the case may be, an "UA", certificate; or

(b) the film is not suitable for unrestricted public exhibition, but is suitable for public exhibition restricted to adults or, as the case may be is suitable for public exhibition restricted to members of any profession or any class of persons, it shall grant to the person applying for a certificate in respect of the film an "A" certificate, or as the case may be, a "S" Certificate;

and cause in the film to be so marked in the prescribed manner:

Provided that the applicant for the certificate, any distributor or exhibitor or any other person to whom the rights in the film have passed shall not be liable for punishment under any law relating to obscenity in respect of any matter contained in the fill for which certificate has been granted under Clause (a) or Clause (b).

(2) A certificate granted or an order refusing to grant a certificate in respect of any film shall be published in the Gazette of India,

(3) Subject to the other provisions contained in this Act, a certificate granted by the Board under this section shall be valid throughout India, for a period of ten years.

5-B. Principles for guidance in certifying films:--

(1) A film shall not be certified for 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."

It is thus seen from the above that there can be cinematograph exhibitions only under the licence under the A.P. Cinemas (Regulation) Act, 1955, "save as otherwise provided in the A.P. Cinemas (Regulation) Act, 1955" and only when they are certified for such exhibition by a Board appointed for the said purpose. Any cinematograph exhibition is not permissible unless it is duly certified by the Board for such exhibition. A film which is suitable for public exhibition restricted to members of any profession or any class of persons shall carry "A" certificate or a "S" certificate, as the case may be, and if it is suitable for unrestricted public exhibition or for unrestricted public exhibition with an endorsement of the nature mentioned in the proviso to Clause (i) of Sub-section 4, shall bear "UA" certificate. Section 5-E provides, inter alia, as follows:

"5-E. Suspension and revocation of Certificate.-.....the Central Government may, by notification in the Official Gazette, suspend a certificate granted under this Part, for such period as it thinks fit or may revoke such certificate if it is satisfied that-

(i) the film in respect of which the certificate was granted, was being exhibited in a form other than the one in which it was certified; or

(ii) the film or any part thereof is being exhibited in contravention of the provisions of this Part or the rules made there under"

4. We are not inclined, in the instant case, to go into further details of the Regulations under which there can be a cinematograph exhibition and the circumstances under which the licence of any cinematograph exhibition can be cancelled, as it is a clear case of a licensee going beyond the certification and exhibiting films in his theatre with interpolations to make scenes hard or near-hard pornography. Respondents 2 and 3 have neither entered any caveat to the above nor filed any return to dispute the fact that the seized film "Dark Dancer" was not an exact copy of the master video copy of the film censored by Mumbai Office and that a portion of the film of "Dark Dancer", a cut of from the main film, was separately kept and exhibited in the manner as stated in the report of the members of the Regional Advisory Panel, such as, a scene showing dancers in a club where there is continuous exposure of bare female breasts more prominently and more prolongedly than the censored version and a scene in the seized film showing a male thrusting his head in between the thighs of a female, which scene does not appear in the censored version. The theatre has been exhibiting the film "Secret Games 3" also with substantial abrasions which is candidly mentioned in the report.

5. We are not entering, in the instant case, into the issue as to what, for the purposes of public exhibition, may be seen as outrageous to decency or morality as indeed every society has at times seen or viewed morality and decency in the light of the common perceptions shared by people at large. At no time, however, obscenity, vulgarity or pornography has ever been accepted as an act which does not go against the interest of decency or morality. Country today may not have the same catholic sense of morality and decency which it had in fifties or sixties. There are quite a few areas where one may find more acceptance of sex as a part of education than it was in early decades of the establishment of the Republic of India, but abhorrence to obscenity, vulgarity and pornography has remained unchanged. Without intending to placate and without in any manner intending to speak for the women, we have reasons to think that the second and third respondents have violated the fundamental right of women under Article 15(2)(a) of the Constitution of India read with Article 14 thereof by exhibiting such scenes, which the third respondent has admitted, were not meant to be seen by women. Article 15(2)(a) prohibits any disability, liability, restriction or condition with regard to access to any place of public entertainment of any citizen on grounds of sex. Respondents 2 and 3 were not altogether unaware of the sense of indecency or immorality when they themselves felt that presence, in the audience, of the two women advocates would not be desirable, whether they were informed or not of one of the fundamental duties in Article 51A in Part IV-A of the Constitution of India, which says that it shall be the duty of every citizen of India.....; to renounce practices derogatory to the dignity of women. It is no one's case before us that interpolations have any sanction of law or authority and Respondents 2 and 3 have done nothing which has gone beyond the forbidden area.

6. Ramakrishna 70 MM theatre has done not only harm to itself but has shown that there are substantial violations in controlling cinematograph exhibition in the theatres in the City of Hyderabad. Commissioner of Police has noted such areas of violations of laws in the report aforementioned and emphasised upon the licensees of the Cinema Theatres that they should not display or cause to be displayed any films which were not bearing the Certification of Censor Board for exhibition, that when any film was certified for adults only, no person, who was not an adult, was permitted to enter the Theatre and witness the film and that the conditions stipulated under the Cinematograph Act and the licence conditions, laid down in Form B issued under Sub-rule (2) of Rule 12 of the A.P. Cinemas (Regulation) Rules, 1970 particularly, were not violated. He has realised that allied to the exhibition of films are displays of photographs, pictures, posters etc. which depict or represent scenes or shots, which are sometimes obscene and objectionable and emphasised to the licensees that they were not expected to display or cause to be displayed such pictures and posters which depict a scene or shot, which had been excised from any film under the orders of the Central Board of Film Certification.

7. The Commissioner of Police is not unaware of the provisions of the Indecent

Representation of Women (Prohibition) Act, 1986 and has rightly conveyed that any violation of the provisions of the said Act shall be punishable and provisions thereof are applicable to display of objectionable posters and hoardings implying figures not properly dressed and/or which were obscene or pornographic. We have good reasons to command for future implementation of the conditions of licence - (1) for prevention of Black-marketing in cinema tickets; (2) for regulating the traffic at the beginning and end of each show by appointing traffic wardens by the Theatre Management; (3) by staggering of show-timings, particularly, in respect of the Cinema theatres located at busy cross-roads where flow of traffic is very heavy; (4) by erecting the barricades on the foot-paths of the roads in front of the theatres by levelling the foot-paths with "shabad" stones or cementing them at the cost of the management; (5) by maintaining temperature ranging between 76° and 80° F., in the cinema auditorium during exhibition of the shows etc. Coming to the case in hand, we could not think of anything but an order to cancel the licence of the theatre save the stand taken by the second and third respondents before us that they would ensure that the theatre complied with all the necessary regulations and exhibited only such movies and for such audience only for whom they were certified by the concerned Board of Certification and that they would submit to cancellation of licence without protest in case of any future violation by them and on condition of payment of costs of Rs. 1,50,000/- for the benefit of the women whose dignity alone has been violated by exhibition of interpolated films. We, however, do not take such acts of exhibition of obscene, vulgar or pornographic films only as the violation of the dignity of the women. It has more dangerous effect, in our view, on the adolescent and unsuspecting minds who do not ordinarily understand what to do and carry the impressions of what they see happening in the movies they watch into deeds. Such persons may be found belonging to the impersonate age group of adolescent young boys and girls and may also be found in the adults who do not have the same perception of honouring the fair sex. Since, however, there is some realisation and concern expressed at the Bar on behalf of the second and the third respondents, we hold that suspension of the licence issued in the name of the second respondent u/s 3 of the A.P. Cinemas (Regulation) Act and the rules framed thereunder for a period of two months and 15 days ending with 16th January, 1997 shall meet the ends of justice on conditions, inter alia, that in future all conditions of licence and regulations for cinematograph exhibition shall be meticulously implemented and all that is desired at the meeting dated 20-12-1996 convened by the Commissioner of Police shall be implemented by 16-1-1997 and the second respondent shall deposit a sum of Rs. 1,50,000/- towards costs for the benefit of the destitute women seeking legal aid with the Committee constituted under the Legal Services Authority Act for legal aid in the High Court of Andhra Pradesh within one week.

8. Before we part with this petition, we are persuaded to observe that there is some hole somewhere in the system that even excised portions by the Censor

Board of the films have found their way to the theatres and there are several such short films and clippings with theatre owners which have not passed through the Board of Film Certification at all. It is necessary, in our view, that immediate steps are taken by the licensing authority to see that all such films which are not cleared by the Board of Film Certification are seized and destroyed and steps are taken to ensure that (no) (sic.) such films, which are not duly cleared or portions of the film which are not cleared by the Board of Film Certification, do not enter the theatres. The Commissioner of Police, Hyderabad City is directly made responsible under the law for the said purpose and he shall be failing in his duty if he does not do the above immediately, not only in respect of Ramakrishna 70 MM theatre alone but all the theatres in the City of Hyderabad. Although those who serve the cause of the society do not need any approbation, but for the help of the two learned advocates - Mrs. Sumalini Reddy and Mrs. G. Jyothi Kiran, the Regional Officer and members of Regional Advisory Panel of the Central Board of Film Certification, the panel members who were appointed by the Court and the learned Counsel for the petitioner who has appeared Amicus Curiae as well as learned Advocate General and Government Pleader for Home who have appeared for the first respondent and the learned Counsel who have appeared for the second and third respondents, the above would not have been easy to achieve.

9. In the result the writ petition is ordered as above.