
(2015) 10 DEL CK 0036

In the Delhi High Court

Case No : W.P.(C) No. 8013/2015, CM No. 16375/2015, 18838/2015 and 19922/2015

Edara Gopi Chand

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 20-10-2015

Acts Referred:

Cable Television Networks (Regulation) Act, 1995 — Section 5
Cinematograph Act, 1952 — Section 4(1)(i), 5A(1)
Constitution of India, 1950 — Article 226

Citation : (2015) 224 DLT 464

Hon'ble Judges : G. Rohini, C.J. and Jayant Nath, J.

Bench : Division Bench

Advocate : Gaurav Kumar Bansal, Advocate, for the Appellant; Vivek Goyal, CGSC, Dharendra Yadav, Noor Anand and Abha Malhotra, Advocates, for the Respondent

Final Decision : Disposed Off

Judgement

G. Rohini, C.J.

1. The present writ petition by way of PIL is filed seeking a direction to the respondent No. 1 - Ministry of Information and Broadcasting to cause a detailed enquiry into the re-certification of the film "Grand Masti" from "A" to "V/UA" and further to quash the "V/UA" certificate dated 14.1.2015 granted to the said film by the respondent No. 2 - Central Board of Film Certification.

2. The writ petition was filed on 20.08.2015 pleading that the film "Grand Masti" which is having pervasive adult theme and highly objectionable content and not fit for unrestricted public exhibition is scheduled for telecast on television channel of M/s. Zee Entertainment Enterprises Ltd. (respondent No. 4) on 22.08.2015 at 10.00 p.m. It is also contended that the re-certification of the said film from "A" to "V/UA" is in violation of the provisions of the Cinematograph Act, 1952 and the proposed telecast on television channel is not in conformity with the

provisions of the Cable Television Network (Regulation) Act, 1995 and the Rules made thereunder.

3. Having been prima facie satisfied that the telecast of film in question on TV channels is not in public interest, this Court by order dated 21.08.2015 stayed telecast of film until further orders.

4. In response to the notice ordered by this court, the respondent No. 3 -M/s. Maruthi International (the producer of the film "Grand Masti") and respondent No. 4 - M/s. Zee Entertainment Enterprises Limited (satellite rights holder for the film, who also owns the TV channel "&Pictures" (on which the said film was scheduled for telecast) entered appearance and filed CM No. 19922/2015 and CM No. 18838/2015 respectively seeking vacation of the interim stay dated 21.08.2015.

5. We have heard the learned counsel for both the parties.

6. While drawing our attention to the provisions of Section 4(1)(i) of the Cinematograph Act, 1952, Section 5 of the Cable Television Networks (Regulation) Act, 1995 and Rule 6(1)(o) of the Cable Television Networks Rules, 1994, Shri Gaurav Kumar Bansal, the learned counsel appearing for the petitioner reiterated the contention in the petition that the re-certification of the film from "A" to "V/UA" is highly arbitrary, illegal and in violation of the provisions of the Cinematograph Act, 1952.

7. The learned counsel for the respondent Nos. 3 and 4, at the outset have brought to our notice that the film in question has already been aired on the cable television of the respondent No. 4 on 25.07.2015, 01.8.2015 and 02.8.2015 without any complaint or objection from any corner. It is also contended by the learned counsels that the writ petition is liable to be dismissed in limine since all the respondents, except respondent No. 1, are situated in Mumbai and thus, this Court lacks territorial jurisdiction and further the material fact that the film has already been telecasted on television has been suppressed by the petitioner.

8. Regarding the objection as to the maintainability of the writ petition on the ground of lack of territorial jurisdiction it is sought to be contended by the learned counsel for the petitioner that since the film is proposed to be telecasted all over the country, the jurisdiction of this Court cannot be ousted on a technical ground that the office of the respondents No. 2 to 4 is situated at Mumbai.

9. It may be mentioned that the objection as to the maintainability of the writ petition was raised even at the stage of the admission of the petition by the learned standing counsel for Union of India and the learned counsel appearing for CBFC. Having regard to the fact that the cause sought to be espoused by the petitioner involves an element of public interest this Court rejected the said objection and thus interim stay was granted recording prima facie satisfaction that the telecast of the film in question on TV channels is not in public interest.

We therefore do not consider it appropriate to allow the respondents to re-agitate the said objection. At any rate, the law is well settled that the situs of the cause of action upon which the petitioner approaches the Court and seeks issuance of a writ against the respondent is also a relevant and determinative factor to decide the dispute with regard to the territorial jurisdiction of the High Court under Article 226 of the Constitution of India and even if a small fraction of cause of action arises within the territory in relation to which the High Court exercises jurisdiction, it shall have jurisdiction to entertain the writ petition notwithstanding the fact that the situs of the office of all the respondents is situated outside its territorial jurisdiction. Even according to the doctrine of forum conveniens it is the discretion of the Court either to entertain or to reject the writ petition depending upon the facts and circumstances of the case.

10. Coming to the merits of the case, it is clear from the counter affidavits filed by the respondents No. 1 and 2 that the film in question has already been telecasted on TV channels on 25.07.2015, 01.08.2015 and 02.08.2015. The petitioner simply denies knowledge, pleading that the film was telecasted on Premium HD Channels. In view of the fact that the film was telecasted thrice much prior to the filing of the present petition, we are of the view that the petitioner cannot plead ignorance.

11. It is not in dispute that the petitioner himself filed W.P.(C) No. 5203/2013 assailing the proceedings of CBFC dated 23.06.1995 providing for recertification of "A" and "U/A" films into "U" and to quash the resolution of CBFC dated 24.7.2012 to continue the practice of conversion of films certified "A" films into "U/A" for the purpose of telecast in television channels contending that the decisions of CBFC had stultified the provisions of Cinematograph Act 1952 and Cable Network (Regulation) Rules, 1994. The petitioner also sought various other reliefs including restraining the telecasting of any film which was originally certified as "A" and subsequently recertified into "V/UA" or "V/U" and to direct the Ministry of Information and Broadcasting to prescribe separate Certification norms for films meant for broadcast on television channels.

12. We found that the prayer in the said writ petition is comprehensive and covers various issues including the issue whether a film which is granted "V/UA" or "V/U" certificate by CBFC can be telecasted in TV channels with a caution as stated in Section 5A(1) of the Cinematograph Act, 1952.

13. Though we are unable to hold that the cause espoused by the petitioner is not genuine, since the film in question has already been telecasted thrice and the larger issues sought to be adjudicated are the subject matter of the W.P.(C) No. 5203/2013, we do not consider it necessary to continue the interim order dated 21.8.2015 any longer. Accordingly, the said order shall stand vacated and the writ petition is disposed of leaving it open to the petitioner to urge all the grounds that are raised in the present petition in W.P.(C) No. 5203/2013.

14. However, we make it clear that the exhibition of the film in question in any of

the channels of the television shall be in strict compliance with the requirement of the endorsement of a caution in terms of provisions of the Cinematograph Act, 1952.