
(1995) 04 AP CK 0009
In the Andhra Pradesh High Court
Case No : W.P.M.P. No. 6217 of 1995

Sree Raghavendra Films

APPELLANT

Vs

Government of A.P. and Others

RESPONDENT

Date of Decision : 07-04-1995

Acts Referred:

Andhra Pradesh Cinemas (Regulation) Act, 1955 — Section 8(1)
Cinematograph Act, 1952 — Section 5, 5A, 5B
Constitution of India, 1950 — Article 19(1)
Hyderabad City Police Act, 1348 — Section 22(2)

Citation : (1995) 2 ALT 43

Hon'ble Judges : P.L.N. Sarma, J

Bench : Single Bench

Advocate : Sattoor Chandrasekhar, for the Appellant; A.G., for the Respondent

Judgement

P.L.N. Sarma, J.—This application was filed seeking suspension of the operation of the orders of the second respondent in his proceedings No. L & O/ A3/305/1995, dated 14-3-1995 and the order of the third respondent in her proceedings No.E5/188/95, dated 14-3-1995, suspending the exhibition of the Film title ""Bombay" in the twin cities of Hyderabad and Secunderabad and Ranga Reddy District respectively for a period of two months with effect from the fore-noon of 14-3-1995.

2. The main writ petition itself has been filed for a writ of Mandamus declaring the above mentioned two orders of the second and third respondents respectively as illegal and void.

3. Writ Petition was admitted on 15-3-1995 by this Court and the W.P.M.P. was posted to 21-3-1995 as the learned Advocate-General appearing for the contesting respondents sought time till the said date for filing counter. That is how the matter has come up before me.

4. It is stated in the affidavit filed in support of the writ petition that by virtue of an agreement dated 11-4-1994 between M/s. Alayam Cinema, Madras, who

produced the Tamil Colour Film Talkie titled "Bombay" and M/s. Surya Movies, Madras, the dubbing rights of the said picture in Telugu version was given to M/s. Surya Movies for a royalty of Rs. 42,00,000/-. M/s. Surya Movies after dubbing the picture into Telugu was granted certificate for unrestricted public exhibition of the film by the Central Board of Film Certification in accordance with Rule 35 of Cinematograph Certification Rules, (hereinafter referred to as "the Rules"), made under the Cinematograph Act, 1952, (hereinafter referred to as "The Act"), on 3-3-1995. Subsequently, M/s. Surya Movies granted leasehold rights of distribution, exhibition and exploitation of the said movie for the area of Old Nizam i.e., the entire Telangana area and Raichur District and other places for a sum of Rs. 28,00,000/- to the petitioner. The petitioner paid the entire amount and released the movie on 10-3-1995 in twin cities, Ranga Reddy District and other parts of Nizam area for exhibition. It is stated in the affidavit that the movie was widely acclaimed by the film circles, press, public, cinegoers and everybody as a master-piece and produced for bringing communal harmony and amity between different communities. It is also stated that on the same day viz., 10-3-1995, Tamil version of the film was released all over the South and parts of Orissa State, where also it is running to packed and full houses and no untoward incident either communal, religious or otherwise has been reported as a result of the screening or exhibition of the film from any locality or area either in Nizam or other parts of the country where the movie is being exhibited. It is further stated that the film received international acclaim, which was telecast by the Star T. V. network on 12-3-1995 and 13-3-1995.

5. While so, on 14-3-1995 the impugned orders were passed by respondents 2 and 3 suspending the exhibition of the movie in the twin cities and Ranga Reddy District for a period of two months with effect from the fore-noon of 14-3-1995 on the ground that it was brought to their notice that the exhibition of the movie is likely to cause breach of peace and create religious animosity and hatred between different communities. The impugned orders have been passed purporting to exercise the powers u/s 8(1) of "The Act" and Section 22(2)(e) of the Hyderabad City Police Act, 1348 Fasli, (hereinafter referred to as "Act, 1348 Fasli").

6. Impugned orders have been assailed mainly on the grounds-

(1) that the ingredients of Section 8 of "the Act" have not been complied with, in the sense, that the second respondent never formed any opinion of his own that the exhibition of the film is likely to create religious animosity or hatred between the communities or individuals, which is a pre-requisite for exercising powers u/s 8 of "the Act" and that the impugned orders merely state that it was brought to the notice of second and third respondents that the exhibition of the film is likely to cause breach of peace and create religious animosity or hatred between the communities;

(2) that there is no material before respondents 2 and 3 to form such an opinion;

(3) that the formation of opinion by the statutory authority can only be after seeing the motion picture. In other words, the authority must see the film to form an opinion as required u/s 8 of "The Act". In this case, the statutory authorities have not seen the picture before passing the orders on 14-3-1995. On that ground also the impugned orders are liable to be declared as illegal;

(4) that u/s 5 of Act 37 of 1952 the Central Government established an Advisory Board which is known as "Film Censor Board" consisting of persons from different walks of life with varied experience to judge the effect of the film on the public. The Board, having seen the picture and having been satisfied and judged that there will not be any adverse effect on the public, issued certificate for unrestricted exhibition of the film, popularly known as "U" Certificate and respondents 2 and 3 cannot sit in judgment over the decision of the Censor Board which is specifically constituted with people having experience to Judge the impact of the film on the public;

(5) that permitting the unrestricted exhibition of the film is occupied by the provisions of "The Act, 1952" and, therefore, Section 8 of the A.P. Cinemas (Regulation) Act, 1955 and Section 22(2)(e) of "The Act, 1348 Fasli" are inoperative and null and void in view of the repugnancy;

(6) that on the facts and in the circumstances, no reasonable person can form an opinion that the exhibition of the film is likely to cause breach of peace and create religious animosity and hatred between different communities. The incident occurred in "Yadagiri Theater" cannot be taken into consideration for suspending the exhibition of the film in the entire twin cities and Ranga Reddy District, which offends Article 19(1)(a) and (g) and Articles 21 and 300A of the Constitution of India. Having regard to the fact that the orders are ex facie illegal, they are liable to be quashed.

7. Two counters have been filed -one on behalf of the second respondent and the other on behalf of third respondent.

8. Second respondent in his counter has not denied that the Certificate was issued by the Central Board of Film Certification for unrestricted exhibition of the film and that the film was released on 10-3-1995 in the entire erstwhile Nizam area as well as Coastal and Rayalaseema areas and Tamil version was also released in the States of Tamilnadu, Karnataka and Kerala. There is no specific denial of the allegation contained in the main affidavit that the film circle, press, public cinagoers and everybody acclaimed the picture as a masterpiece and produced for bringing communal harmony and amity between different communities. The only allegation in respect thereof is that it is not stated in the proper perspective. Similarly, the allegation that Tamil version of the picture is running all over the South and parts of the Orissa State to packed and full houses also is not denied. It is also not denied that the Telugu version of the film is being exhibited in Andhra Area as well as Rayalaseema area and entire Nizam area excluding twin cities and Ranga Reddy and Warangal Districts. It is only

stated that the factum of the film running to packed capacity is not known. It is stated in the counter that it is not correct to contend that no untoward incident has been reported as a result of screening or exhibition of the film from any locality or area in Nizam or other parts of the country, where the film is being exhibited. It is stated that various leaders and organisations representing certain communities made representations immediately after the release of the film stating, inter alia, that certain portions of the film hurt their sentiments. Some miscreants entered "Yadagiri Theater" within the limits of Kanchanbagh Police Station shouting slogans and damaged furniture. They broke glass-panes and ransacked a shop nearby. A case has been registered in Crime No. 30/95 under Sections 147, 148 and 427 of Indian Penal Code. On 12-3-1995 an anonymous phone call was received at the Police Control Room that a bomb was planted at "Devi Theatre", Chikkadapalli. The exhibition of the film at Devi Theater was stopped and the viewers evacuated and the theatre was checked and it was found that the telephone call was a hoax. On 13-3-1995 an anonymous telephone call was received by Yadagiri Talkies threatening that if the film is continued to be exhibited, the theatre would be burnt. Having regard to the above, two senior police officers were deputed to view the film and submit a report. It is stated in the affidavit filed on behalf of the second respondent that subsequently he also saw the film. No such averment was made in the counter filed on behalf of the third respondent. On the representations and incidents and reports submitted by the two police officers and having regard to the news items, respondents 2 and 3 formed an opinion that the unrestricted exhibition of the film is detrimental to the public and is likely to bring about disturbance of public peace and, therefore, on an over all view of the content of the film, impugned orders have been passed.

9. The counter filed on behalf of the third respondent is practically similar to that of the counter filed on behalf of the second respondent except to the extent that it does not say that the third respondent has seen the picture.

10. A reply has been filed, apart from others, challenging the statement of the second respondent that subsequently he also saw the film. The picture was being exhibited to packed and full houses from 10-3-1995 without any untoward incident in all other places. Two incidents mentioned in the counter at "Yadagiri Theatre" and "Devi Theatre" are absolutely insignificant. It is further stated that the reports of the Senior Police Officers were submitted only on 14-3-1995 to the second respondent. Immediately thereafter with effect from the fore-noon of 14-3-1995 itself exhibition of the film was suspended for a period of two months under the impugned orders. Therefore, the allegation made by the second respondent that he has seen the picture subsequently is false and that he could not have seen the picture on 14-3-1995 even before 10-30 a.m. show itself was suspended. The petitioner relied upon the alleged interview given by the second respondent to the Telugu Film Weekly "Sivaranjani" published on. 21-3-1995 in this regard. It is stated therein that the second respondent was interviewed by Sri A. Bala Reddy, the Associate Editor of the magazine on 15-3-1995 and to a

specific question put by the Associate Editor as to whether prior to the passing of the order he has seen the movie, it is alleged, that he has replied that he has not seen it. On the basis of the said interview published in the weekly, it is contended that the statement of the second respondent is false etc.

11. The writ petition has been admitted as aforesaid and the W.P.M.P. has been posted for orders giving time to the learned Advocate-General for filing counter. Counters and replies have been filed, which are referred to above along with material papers.

12. By virtue of the impugned orders, exhibition of the Telugu version of the film is suspended for a period of two months with effect from the forenoon of 14-3-1995. If this application is not decided now and the disposal of the writ petition is awaited, the period of two months may elapse making the writ petition infructuous. Since both the learned Counsel addressed lengthy arguments, I have to necessarily, even for the purpose of disposal of W.P.M.P. to go into the merits of the contentions on either side to form an opinion as to whether the petitioner established strong prima facie case and balance of convenience is in its favour. Accordingly, I do so.

13. Learned Advocate-General on the other hand contended that there are no merits in the case and that the balance of convenience is also not in favour of suspending the impugned orders pending writ petition. If the impugned orders are suspended pending writ petition, the effect would be that the film will be exhibited in twin cities as well as Ranga Reddy District and it may lead to communal tension and may culminate in communal violence and even if a single life is lost in such violence, if ultimately the writ petition is dismissed, irreparable damage will be done as the lost life cannot be brought back. It is always open to the Government to review the order periodically and it may review the order also and consider the entire matter once again and pass appropriate orders and therefore, this Court should dismiss the application. It is further contended that the decision of the Censor Board is only for commercial purpose and it has no concern with maintaining the law and order which is within the province of law enforcing agencies. Therefore, the same must be left to the discretion of law enforcing agencies. It is also contended that the communal violence depends upon adult fanatic. The circumstances and the situations differ from place to place and area to area. It is further contended that the exhibition of the film may be permissible in other areas and may not be permissible in the old city area. The effect depends upon the place and situation and the whole thing will have to be judged from the point or view of volatile people. Learned Advocate-General also referred to certain scenes in the movie, which according to him, provoke and likely to lead to communal tensions which may culminate in communal violence. Therefore, he contended that the application is liable to be dismissed.

14. The first contention of Sri E. Manohar, learned Senior Counsel appearing on behalf of the petitioner is that the impugned orders do not show that respondents 2 and 3 formed any opinion of their own which is a pre-requisite for

exercising the powers u/s 8 of "the Act 4 of 1955" and, therefore, they are illegal and void. It is also contended that the order of the second respondent does not satisfy the requirements of Section 22(2)(e) of "Act 1348 Fasli".

15. To appreciate this contention, it is necessary to refer to the relevant portions of the Sections. Section 8 of "the Act 4 of 1955" insofar as it is relevant for our purpose is as follows:

"8. Power of Government or District Collector to suspend exhibition of films in certain cases:-

(1) xxxxxxxxxxxx, and the District Collector in respect of any area within the local limits of his jurisdiction may,..... he is of opinion of that any film which is being publicly exhibited is likely to cause a breach of this peace, by order, suspend the exhibition of the film,,....."

In so far as twin cities are concerned in the place of the Collector, the competent authority is the second respondent.

16. The portion which is relevant for the present purpose in Section 22(2)(e) of "Act 1348 Fasli" is as follows:-

"22. Powers of Police Commissioner and other Police Officers to give directions to the public:-

(1)

(2) Powers to issue orders for prevention of disorder:-

The Commissioner of City Police, Hyderabad may, whenever and for such time, as he considers necessary for the preservation of the public peace and public safety, by notification, issue an order to the public or to particular individuals prohibiting the following matters-

(a)

(b)

(c)

(d)

(e) making a speech, gesture or mimetic representation, exhibition, or dissemination of pictures.....or any other thing which is against.....in the opinion of the Commissioner of City Police- Hyderabad is likely to create religious animosity or hatred between different communities....."

17. It is prima facie clear that when the second respondent is of the opinion that the film which is being publicly exhibited is likely to cause breach of peace or is likely to create religious animosity or hatred between different communities, he is competent to issue prohibitory order under the above mentioned provisions. The question now is as to whether the second and third respondents

formed any-opinion of their own for issuing the impugned orders. To answer this question, it is necessary to refer to the impugned orders which are identical in material particulars and they are as follows:-

The order of the second respondent is as follows:

"Proceedings of. the Commissioner of Police, Hyderabad City.

Present: Sir V. Apparao, IPS.,

No. L & O? A3 /305 /1995

Dated 14-3-1995.

Sub: Cinemas - Suspension of exhibition of Telugu Film "Bombay" in me twin cities of Hyderabad & Secunderabad - Orders - Issued.

Whereas, it has been brought to my notice that a Telugu Film by name "Bombay" being exhibited in the twin cities of Hyderabad & Secunderabad, is likely to cause breach of the peace and create religious animosity and hatred between different communities, I, V. Appa Rao, IPS., Commissioner of Police, Hyderabad City (Licensing Authority), as per the powers vested in me under sub-section (1) of Section 8 of Andhra Pradesh Cinemas (Regulation) Act, 1955 and Section 22 (2) (e) of the Hyderabad City Police Act, 1348 Fasli (Act IX of 1348 Fasli), do hereby suspend exhibition of the above said film in the twin cities of Hyderabad & Secunderabad for a period of two months from the fore-noon of today i.e., 14th March, 1995.

.....

.....

Sd/-xxxxxxxxxx

14-3-1995

The Commissioner of Police,

Hyderabad City (Licensing

Authority)"

The order of the third respondent is as under:-

"Proceedings of the District Collector, Ranga Reddy District.

Present: Smt. Pushpa Subrahmanyam, IAS

Procgs.No.E5/188/95. Dated: 14-3-1995.

Sub: Cinemas - Ranga Reddy District - Suspension of exhibition of Telugu Film "Bombay" in RR District - Orders - Issued.

Ref: Arising.

....

ORDER:

Where as. it has been brought to my notice that the Telugu film byname "Bombay" is being exhibited in the Ranga Reddy District is likely to cause breach of peace and create Religious Animosity and hatred between different communities I, Smt. Pushpa Subrahmanyam, I.A.S., District Collector, Ranga Reddy District (Licensing Authority) as per powers vested in me under sub-section (1) of Section 8 of Andhra Pradesh Cinemas (Regulation) Act, 1955 do hereby suspend exhibition of the said film in the Ranga Reddy District for a period of two months from the forenoon of today i.e. 14th March, 1995.

.....

.....

Sd./-xxxxxxx

Collector, R.R. District.

Sd/- xxxxxxx

Revenue Assistant."

18. Both the orders say that it has been brought to their notice that the Telugu film "Bombay" which is being exhibited is likely to cause breach of peace and create if religious animosity and hatred between different communities and, therefore, the orders have been issued suspending exhibition of the film for a period of two months with effect from the forenoon of the date of the order i.e., 14.3. 1995.

19. Nowhere in the impugned orders, respondents 2 and 3 stated that they have formed the requisite opinion of that it is in their opinion that the exhibition of the. film in question is likely to cause breads of peace and create religious animosity and hatred between different communities. There is no indication in the order or any reference to the formation of opinion by respondents 2 and 3 who are discharging statutory functions under the aforesaid provisions of the Acts. It is fairly well settled that freedom of expression mentioned in Article 19(1) (a) of the Constitution of India takes in the exhibition of the film which has been given "U" Certificate by the Central Board of Film Certification and this fundamental right is guaranteed by Article 19(1)(a) of the Constitution of India. When an order is being passed by the statutory authority restricting or affecting the said fundamental right, it must strictly follow or confine itself to the provisions of statute which authorise the authority to pass an order. As I have already stated, the impugned orders prima facie, do not show that the authorities formed opinion of their own before issuing the impugned orders. I am of the opinion, having regard to tine above, that there is a strong prima facie case in favour of the petitioner.

20. It is, however, contended by the learned Advocate-General that any amount of material was placed before the second respondent and number of representations were made by respectable persons in public life, including two of the Members of Legislative Assembly and others to the effect that the film in question contained scenes which hurt the sentiments of one community and that the same should be banned. Second respondent deputed two senior police officers to see the picture and to submit reports. Accordingly, the officers have submitted their reports after seeing the picture and on the basis of the material placed before the second respondent, the impugned orders have been passed and therefore, it must be taken that the second respondent is deemed to have formed an opinion on the material placed before him. Prima facie, I am unable to accept this argument of the learned Advocate-General. The impugned orders must contain that having regard to the material placed before him, the second respondent formed an opinion. Passing impugned orders relying upon the opinions indicated in the two reports of the Police Officers will amount to abdication of the statutory functions by respondents 2 and 3.

21. Further, I am of the opinion that in case of a film, the formation of opinion by the competent authority can only be on seeing the picture. The authority may have any number of reports or representations before it, but no opinion of his own can be formed without seeing the picture. The opinion of others or representations and the material placed before the authority, in a given case, maybe conflicting, but then how to form an opinion with reference to exhibition of film? That can only be after seeing the picture. In the present case, the petitioner emphatically and unambiguously stated in the affidavit that neither the second respondent nor the third respondent saw the film before passing the impugned orders. In the counter filed on behalf of the second respondent, second respondent was evasive and casually stated that he has also seen the picture. He has not given as to when he saw the picture, where he saw the picture. Learned Senior Counsel appearing on behalf of the petitioner, Sri E. Manohar; strenuously contended, on the basis of reported interview contained in the weekly "Sivaranjani", that the statement made on oath by the second respondent is false. It is not necessary for me to go into this question. Prima facie, I am of the opinion that when a specific allegation is made in the affidavit that the authority before passing the impugned order has not seen the picture, second respondent, if he has seen the picture before passing the impugned order, would have stated so. No such averment is made in the counter affidavit. I am prima facie of the view, having regard to the material placed before me, that the second respondent has not seen the picture before passing the impugned orders. Whether he has seen the picture subsequently or not is not material for the disposal of W.P.M.P. So far as third respondent is concerned, it is not her case that she has seen the picture at all. I am further, prima facie, of the opinion that there is no material before the third respondent for passing the impugned order. Obviously, third respondent passed the impugned order by following the impugned order of the second respondent.

22. In this connection, it would be relevant to note what is contained in the representations made to the authorities, which are filed in the material papers, and the reports submitted by the police officers. It is stated that Mr. Mohd Amanullakhan, M.L.A. issued a press statement to delete provocative scenes from the film "Bombay" i.e., the scenes of demolition of Babri Masjid, slogans like Jai Sai Ram etc. the representations and objections seem to be with reference to certain scenes in the picture. Except deletion of those scenes mentioned above, nothing is mentioned in the representations. Therefore, prima facie, I am of the opinion that suspension of exhibition of the entire film, when representations themselves were against certain scenes, is not justified.

23. As stated in the fore-going paragraphs, unless one sees the movie, it may not be possible to decide the issues that arise in the present case. The counsel for the petitioner arranged for the same and I have seen the movie along with the Counsel on either side.

24. The movie depicts yet another usual, normal live story between two youngsters. The only difference being one is a Hindu and the other is Muslim. Just as in the case of inter-caste marriages or inter-religious marriages, initially any amount of opposition was there for the same from both the families. Ultimately, the elders of both the families reconciled and became very affectionate to each other and went to the extent of saving each other in the senseless communal violence that erupted between the two communities at Dongre, Bombay due to the mechnation of selfish religions fundamentalists, extremists and fanatics in the backdrop of demolition of Babri Masjid. It also depicts the killings of innocent and common people and the untold misery that caused to the common man and ultimately it shows as to how people belonging to one religion save the people of other religion from the attacks. Ultimately, the people of both the religions realise the futility of all the senseless violence and finally it depicts as to how the inherent goodness in human mind triumphs and reason dawns on the minds of all the people to live together respecting each other as Indians. The picture further shows that the people belonging to both the communities learnt a great lesson after bloody conflict in a hard way.

25. The message that is conveyed by the movie, to my mind, is that the people belonging to both the communities should keep away from getting involved in violence caused due to the mechnations of the religious fundamentalists, fanatics and extremists, who exploit them for their ulterior purposes. It further shows that every person in both the communities being human has inherent goodness in them, which in the end, prevails and they see the futility of reckless and senseless violence which lead them nowhere. The picture also reminds that the people of both the communities should develop tolerance and respect for each other. In short, the attempt of the producer of the film is to draw a lesson from the ghostly violence that erupted after the demolition of Babri Masjid, expose the motives of persons who operate behind the scenes to generate and foment conflicts and to emphasise the desire of persons to live in amity and the

need for them to rise above religious barriers and treat one another with kindness, sympathy and affection.

26. The movie has shown for two or three minutes the symbolical demolition of the top portion of Babri Masjid and also carries whatever printed in the newspapers with regard to the same at that time. During the course of arguments it was submitted that the said demolition of Babri Masjid was telecast in world service of BBC, that a fact which had happened can be shown and that a similar contention that truth can be televised and exhibited was also upheld by the learned Judges of the Supreme Court in *Ramesh Dalal Vs. Union of India (UOI) and Others*, .

27. But I am prima facie of the opinion that showing the demolition, though a fact, may affect the susceptibilities of religious sentiments of one community having regard to its exhibition in the twin cities and Ranga Reddy District.

28. Similarly, lifting of the veil of the friend of the heroine due to mistaken thinking that that girl is the one he loved does not in the context, in my opinion, offend the religious sentiments of a community. If the veil is lifted by a stranger, with an intention to outrage her modesty, that requires to be condemned in strongest terms. But here is a situation where the heroine herself to play a pleasant joke on the hero, exchanged the bags so as to mislead the hero to go to the other lady who is made to carry her red hand-bag, thinking that she is the girl he loved. Therefore, in the context and having regard to the situation, nothing adverse can be said about the scene.

29. The other incident in the picture is when Mr. Narayana Murthy, the father of the hero goes to the place of work of Mr. Basheer Ahmad and orders one lorry load of bricks with an inscription of "Rama" on each brick. It was depicted to show the hostility between the two having regard to the fact that their children belonging to two different religions married each other. I am prima facie of the opinion, that if the three scenes are viewed in isolation, it may offend religious sentiments of one community. But in the context and having regard to the theme of the movie, it may not be possible to contend that the three scenes offend the religious feelings of one community. However, since I am disposing of W.P.M.P. only pending writ petition, having regard to the places in which the movie is to be exhibited, I am of the view that in the twin cities and Ranga Reddy District the movie can be exhibited, pending disposal of the writ petition, without the above three scenes.

30. The next point that arise for consideration is what is the effect of issuance of "U" Certificate for unrestricted exhibition of the film by the Censor Board. "U" Certificate has been given to this picture "Bombay" by the Central Board of Film Certification under the provisions of Cinematography Act, 1952. The content and ambit of the provisions of the Act fell for consideration in number of decisions and one such being in *Ramesh v. Union of India* (1 supra). The learned Judges referred to the scheme of the Act and stated as under with reference to the

provisions.

"In this connection we may refer to the relevant provisions of the Cinematograph Act, 1952, which is an Act to make provision for the Certification of cinematograph films for exhibition and regulating exhibitions by means of cinematograph. Section 3 of the Act provides for Board of Film Censors. Section 4 of the Act provides for examination of films. A film is examined in the first instance by an Examining Committee u/s 4-A and, in certain circumstances, it is further examined by a Revising Committee u/s 5. Members of both the Committees are expected to set out not only their recommendations but also the reasons therefore in cases where there is difference of opinion amongst the members of the Committee. Section 5-A of the Act provides that if after examining a film or having it examined in the prescribed manner, the Board considers that the film is suitable for unrestricted public exhibition, such a certificate is given which is called "U" certificate. Section 5-B of the Act provides for guidance in certifying films. The said Section-5-B provides as follows:

5-B. Principles for guidance in certifying films - (1) A film shall not be entitled 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 the case of the petitioner, which is not controverted in the counter filed on behalf of the respondents, that the Film Censor Board has issued certificate for unrestricted public exhibition only after being fully satisfied that no part of the film is against the interests of the sovereignty and integrity of India, public order or is likely to visit the Commission of any offence. Therefore, the Cinematograph Act itself contained the provisions referred to above, to ensure that the provisions of Section 5(B) are satisfied and further to ensure that the film is not likely to offend the religious feelings and susceptibility of the people. As the learned Judges of the Supreme Court stated in Ramesh case (1 supra) that under the provisions of the Act, the film is examined by Examining Committee u/s 4 and also by the Regional Advisory Panel u/s 5. The members of the Committees are expected to set out their recommendations and also reasons therefor, in case where there is a difference of opinion amongst the members. The Board consists of persons from different walks of life having varied experience and qualified to judge the effect of the film on the public. The procedure for the grant of certificate of exhibition to a film is quite elaborative and unanimous approval by the Examining Committee must be given full weight. As pointed out by Krishnaiyer J. in Raj Kapoor Vs. Laxman, the Court would be slow to interfere

with the conclusion of a body specially constituted for this purpose.

31. One of the pre-requisites for the issuance of U" Certificate as provided by Section 5 of Act 37 of 1952 is the recommendation of the Advisory Panel made after judging the effect of the film on the public. The provision so far as it is relevant for the present purpose is as under:

"5. Advisory Panels: (1) For the purpose of enabling the Board..... may establish.....Advisory panels.....consist of such number of persons.....qualified.....to fudge the effect of films on the public

32. In this case, there is no dispute that on the recommendations of the Advisory panel "U" Certificate was issued and the opinion of such Advisory panel must be given full weight as mentioned in the above paragraph.

33. In view of the above and having regard to the above categorical pronouncement of the Supreme Court, this Court will have to be slow in interfering with the conclusion of the Body specially constituted to Judge the effect of the film on the public, on the basis of which certificate of unrestricted exhibition of the film was issued.

34. The next point that has to be considered is what is the standard from which any film is to be judged as to whether its exhibition will offend the religious feelings of different communities or not?

35. It is vehemently contended by the learned Advocate-General that the approval of the Censor Board pertains to commercial exhibition of the film and the Board is not concerned with the law and order problem and the possibility of communal violence and that is the duty of the law enforcing agencies to assess the situation and issue appropriate orders. He further contended that there may be religious fundamentalists, fanatics creating law and order problem and that the entire situation will have to be judged from the view point of volatile people.

36. The argument of the learned Advocate-General cannot be accepted for the simple reason that the point, in my prima facie view, is no longer res integra. Dealing with similar contentions, the learned Judges of the Supreme Court in the decision referred to supra (1) after considering several cases on the point, stated as under:

"Vivian, Bose, J., as he then was in the Nagpur High Court in the case of Bhagavati Charan Shukla v. Provincial Government AIR 1947 Nagpur 1 has indicated the yard-stick by which this question has to be judged. There at page 18 of the report the Court observed that the effect of the words must be judged from the standards of reasonable, strong-minded, firm and courageous men. and not those of weak and vacillating minds, nor of those who scent danger in every hostile point of view. This in our opinion, is the correct approach in judging the effect of exhibition of a film or of reading a book. It is the standard of ordinary reasonable man or as they say in English law "the man on the top of a clapham omnibus."

The learned Judges further observed in para 16 of their Judgment as under:

"But the likelihood must be judged from healthy and reasonable standards."

This was reiterated again by the Supreme Court in *S. Rangarajan Vs. P. Jagjevan Ram and Others*, . In this case the learned Judges had to consider whether the Tamil film titled "Ore Oru Gramathile" (in one village) which was given "U" Certificate can be allowed unrestricted public exhibition. The message of the film is that the existing method of reservation on the basis of caste is bad and the reservation on the basis of economic backwardness is better and also it depicts the exploitation of people on caste considerations as bad. The film draws the attention of the Government and the people that the existing system of reservation in educational institutions overlooks merit etc. The issuance of "U" Certificate was challenged in the High Court of Madras on the ground that the entire theme was depicted in a biased manner. In that context, the learned Judges considered as to what is the standard from which any film is to be judged. The learned Judges stated as under in para 21 of their judgment, after referring to the above mentioned two Judgments (supra 1 and 2):

"We affirm and reiterate this principle. The standard to be applied by the board or courts for judging the film should be that of an ordinary man of common sense and prudence and not that of an out of the ordinary or hypersensitive man."

In view of the authoritative pronouncements of the Supreme Court, I am prima facie of the opinion, for the purpose of the disposal of this application, that the standard from which the film has to be judged is that of an ordinary man of common sense and prudence and not that of an out of the ordinary or hypersensitive man or from the point of view of religious fanatic, fundamentalist or extremist. Having seen the movie from the said point of view, I am of the opinion that the film carries the message that the realisation ultimately dawns on the people regarding the futility of violence and hatred, fomented and instigated by religious fundamentalists, fanatics and extremists and emphasises the desire of the persons to live in amity and treat one another with kindness and affection. As stated by the Supreme Court in the Judgment referred to (supra 1), such a message is possible only for a motion picture to convey in depth and I am sure, this film will achieve the same atleast to some extent. I am of the opinion that the film "viewed in its entirety, is capable of creating a lasting impression of this message of peace and co-existence and that people are not likely to be obsessed, over-whelmed or carried away by the scenes of violence or fanaticism shown in the film". I cannot do better than quoting the above.

37. It is then contended by the learned Advocate-General that two of the Members of Legislative Assembly and certain other organisations submitted their representations, as aforesaid, against the exhibition of the film with a demand to ban it on the ground that the exhibition of the said film may hurt the sentiments of the people belonging to one community. They warned that failing which there

will be communal tension leading to violence. If the film is not banned, there is possibility of communal tension and animosity between the two communities leading to law and order problem. It is not necessary to dwell on this point at length. My task has been made easy and simpler by the Judgment of the Supreme Court referred to supra (3). A similar contention was advanced in the said case also which was repelled by the learned Judges. I cannot do better than to extract the contention as well as the decision in the said case which are as follows:

"It is stated that General Secretary of the Republican Party of India has warned that his party would not hesitate to damage the cinema theatres which screen the film. Some demonstration made by people in front of "The Hindu" office on March 16, 1988 and their arrest and release on bail are also referred to. It is further alleged that there were some group meetings by Republican Party members and Dr. Ambedkar People's Movement with their demand for banning the film. With these averments it was contended for the State that the exhibition of the film will create very serious law and order problem in the State.

We are amused yet troubled by the stand taken by the State Government with regard to the film which has received the National Award. We want to put the anguished question, what good is the protection of freedom of expression if the State does not take care to protect it? If the film is unobjectionable and cannot constitutionally be restricted under Article 19(2), freedom of expression cannot be suppressed on account of threat of demonstration and processions or threats of violence. That would tantamount to negation of the rule of law and a surrender to blackmail and intimidation. It is the duty of the State to protect the freedom of expression since it is a liberty guaranteed against the State. The State cannot plead its inability to handle the hostile audience problem. It is its obligatory duty to prevent it and protect the freedom of expression."

38. It is also important to keep in mind the fact that the Telugu version of the film is running to packed houses (as contended by the petitioner and not denied by the respondents) in the rest of the centres of Andhra Pradesh excluding twin cities, Ranga Reddy and Warangal Districts. It is also running in Raichur District as well as in some parts of Orissa State. Tamil version of the film is being exhibited from 10-3-1995 in the States of Tamil Nadu, Kerala and Karnataka. It is categorically stated in the affidavit filed in support of the writ petition that no untoward incident has been reported from anywhere. Even in the twin cities and Ranga Reddy District except the incident alleged to have occurred in "Yadagiri" theatre, no other incident is mentioned. The anonymous phone call to the Control Room that a bomb was planted in "Devi" theatre was found to a hoax. The above facts will have a bearing in assessing the effect of the film on the public. Further, I am of the opinion that the suspension itself is for two months and more than 20 days have already elapsed.

39. For all the reasons mentioned above, I am of the view that the petitioner has a strong prima facie case in the writ petition and the balance of convenience is

also in its favour.

40. Accordingly,, there will be suspension of the impugned orders pending writ petition. However, the petitioner will be entitled to exhibit the film in the twin cities and Ranga Reddy District without showing the three scenes mentioned above viz., (1) scene of Sri Narayana Murthy going to Mr. Bashir and placing an order for a lorry load of bricks with the inscription of "Rama on every brick; (2) the scene of lifting of the veil of the friend of the heroine by Hero- Shekar; and (3) the scene of showing symbolic demolition of the top portion of Babri Masjid. Ordered accordingly.

41. When I was about to pronounce the judgment in open Court, it is mentioned by the learned Counsel for the petitioner that they have filed a letter with the Registry to be placed before me for withdrawal of the writ petition itself on the ground that an expert committee appointed by the Government has seen the picture and they are about to give their opinion on the same.

42. As this W.P.M.P. is posted for disposal, the Judgment is pronounced.

43. This matter has been set down for "for being mentioned" now at 2.15 p.m. for the reason that there is a typographical error, which is the result of accidental slip in the order dictated and transcribed to-day, which is in the following words:

"This will not come in the way of the Government to take a decision on the basis of the Expert Committee's report, to lift the ban and to exhibit the film without any restrictions whatsoever."

44. In view of the fact that I have pronounced the order in W.P.M.P. No. 6217 of 1995, it is not necessary for me to pass any further orders and therefore, the last sentence extracted above stands deleted, for which course both the counsel agreed.