
(2005) 06 RAJ CK 0011
In the Rajasthan High Court
Case No : C.W.P. No. 3731 of 2003

SUO Motu

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 03-06-2005

Acts Referred:

Cable Television Networks (Regulation) Act, 1995 — Section 19, 20(2)
Cable Television Networks Rules, 1994 — Rule 6(1), 7, 7(8)
Press and Registration of Books Act, 1867 — Section 6

Citation : AIR 2005 Raj 300 : (2006) 1 RCR(Civil) 7 : (2006) 1 RCR(Criminal) 47

Hon'ble Judges : Shiv Kumar Sharma, J;K.S. Rathore, J

Bench : Division Bench

Advocate : A.K. Bhargava Member, Minority Committee, K.K. Sharma, P.C. Jain, for the Appellant; Mohd. Rafiq, AAG, for the Respondent

Judgement

K.S. Rathore, J.—The main issue involved in this petition is with regard to the depiction of women in an undignified manner by the media and the television channels. The Union of India through Ministry of Information and Broadcasting, Director General of Doordarshan and Registrar of Newspapers were also directed to submit affidavit of the concerned authorities indicating as to how the menace is being controlled, and eradicated.

2. Vide order dated 28-9-2004 this Court has further directed the Government of India and the State of Rajasthan to give concrete suggestions to curb the menace of depicting women in indecent manner in newspapers, magazines, advertisements, television programmes, posters and music videos. The Monitoring Committee was also directed to submit its report in regard to the obscenity shown in the hoardings, advertisements and on television.

3. The final report of the Committee constituted by this Court on prevention of representation of women in an undignified manner has been placed before this Court. As per the final report of the Committee, the Committee was required to scrutinize the programmes being telecast by various television channels and also

to scrutinize the news papers for the purpose of identifying the advertisements or photographs or material which are compromising the dignity of women and at the same time corrupting and degrading those whose minds are open to immoral influence.

4. To give possible facts, information, knowledge and other related factors with reference to the task assigned by the High Court (he Committee involves various agencies responsible for direct or indirect implementing of this subject and to ascertain their views on the subject, for example, Doordarshan, Press Information Bureau, Directorate of Public Relations, Urban Development and Housing Deptt Directorate of Panchayati Raj, Department of Women and Child Police Department and various women organizations and NGOs working in this area.

5. In its report the Committee submits that no effective scrutiny of newspapers, etc. is being done before this public sale by any Govt. agency at the -State level. Only a copy of the newspaper/periodical being published from Rajasthan is sent to the DPR after its publication for informative purpose.

6. The following points emerged out of meetings with women's organizations are as under:

1. There must be a direct co-relation between the nature/usage of product and its advertisement and the advertisements not following this, must be discontinued. For example, using scantily lead female models for products like car batteries, tobacco, electric inverters, shaving appliances for men etc. be stopped.

2. Posters of "A" certificate and adult films be prepared and displayed in more healthy and less revealing manner at public places and near cinema halls.

3. There was no consensus on the issue of "indecent" as different representatives had different views on the issue. On one hand there were supporters of strong action and more powers to the Govt. to check the indecent portrayal of women and on the other hand there were votaries of no further powers to the Government. Almost all the participants agreed to have further, discussions on this very vital issue in order to reach a level of consensus, in future.

4. The participants agreed to send their written comments on this issue of indecent portrayal of women and other related matters.

5. One of the participants wrote about the indecent representation of women in newspapers which has been sent to IGP, Jaipur, Range-I for further necessary action.

6. The participants expressed their strong commitments for the "right to freedom of expression" as provided by our constitution. They apprehended a curtailment on this right if the provisions under various legislation for prohibition of indecent

representation of women were made stronger.

7. The participants were of the view that Hon"ble High Court may be requested to specify and given directions on some of the ambiguous terms in the various legislation related to this subject, and decide on specific issues on a case-to-case basis.

8. The participants also expressed the view of leaving the issue of indecency and decency for the coming young generation to deliberate and decide because every generation has its own way of looking at things. An issue, which is so subjective such as indecency or decency cannot be defined or expressed in an unambiguous or objective manner, which is acceptable to all sections of society.

7. The Committee also recommended that a special Judicial Magistrate exclusively for the purpose of expediting action in the Indecent Representation of Women (Prohibition) Act, 1986 is required in all the district headquarters of the State. This Magistrate may hold mobile Courts on the pattern of Railway Magistrate.

8. The District Level Committee constituted, on the suggestion of this Committee, by the Home Department under the Chairmanship of District Collector, be made more powerful by giving powers and authority to its non-official members for checking, inspection etc. This District Level Committee may be given the task to scrutinize the Posters, Hoardings, Cinema Halls, Cable T. V., Newspapers, Magazines etc. For posters and Hoardings in the vicinity of Cinema Halls, the Cinema Hall Owners and the Motion Pictures Association of the concerned district be made responsible. This could also be done under the supervision of District Level Committee.

9. It is also suggested that apart from the advertising agencies, the manufacturer of the product being advertised and the person hiring the advertising agency may be made liable accountable for any use of unfair means Tanta mounting to Indecent Representation of Women.

10. The Union of India submits that the Registrar of Newspapers for India (RNI) is a statutory organisation and is entrusted with responsibilities under the Press and Registration of Books Act 1867, as amended from time to time. It carries out its statutory functions in accordance with the provisions in Part V A of the said Act and as per the Registration of Newspapers (Central) Rules, 1956. As per various provisions of the said Act, the duties and responsibilities of the office of RNI inter alia include.

(i) verification of the titles of the newspapers/periodicals.

(ii) registration of newspapers/periodicals,

(iii) issuance of revised certificates,

(iv) Compilation of Annual Report namely "Press in India" on the status of Print Media in the country and its submission to the Central Govt. and

(v) Furnishing copies of extracts from CR Register etc.

11. It is also contended that Press Council of India has been recently inducted into the Expert Committee set up by the National Commission for Women to keep an eye on gender exploitation by the media, and in the meetings of the Expert Committee, Secretary, PCI represents.

12. The Prasar Bharati has Programme and Advertising Codes which inter-alia, prohibit telecast/broadcast of any programme or advertisements, which contains anything obscene. Doordarshan and All India Radio abide by the codes while telecasting/broadcasting their programmes.

13. The programmes of all Satellite Channels, transmitted/re-transmitted through the Cable Network, are required to adhere to the programmes and advertising codes prescribed under the Cable Television Networks (Regulation) Act, 1995 and Rules framed thereunder.

14. The programme code prohibits carriage of such programmes in Cable Service, which offend good taste or decency, contain anything obscene and are not suitable for unrestricted public exhibition. Programmes meant for children are prohibited from carrying explicit scenes of violence.

15. Rule 6(1)(k) of the Cable Television Networks Rules, 1994 provides that no programme should be carried in the Cable Service which denigrates women through the depiction in any manner of the figure of a women, her form or body or any part thereof, in such a way as to have the effect of being indecent, or derogatory to women, or is likely to deprive, corrupt or injure the public morality or morals.

16. Similarly, Advertising Code prescribed vide Rules 7 of the said Rules, inter-alia provides that no advertisement shall be permitted which in its depiction of women violates the constitutional guarantees to all citizens. In particular, no advertisement shall be permitted which projects a derogatory image of women. Women must not be portrayed in a manner that emphasizes passive, submissive qualities and encourages them to play a subordinate, secondary role in the family and society. The cable operator shall ensure that the portrayal of the female form, in the programmes carried in his cable service, is tasteful and aesthetic, and is within the well-established norms of good taste and decency.

17. Further Rule 7(8) provides that indecent, vulgar, suggestive, repulsive or offensive themes or treatment shall be avoided in all advertisements.

18. Any authorized officer, i.e. District Magistrate or Sub Divisional Magistrate or a Commissioner of Police or any other officer notified in this regard, has powers u/s 19 of the Act to prohibit transmission of certain programmes in public interest if found violative of the prescribed Programme Code and the Advertising Code.

19. The Government of India has already constituted two Inter-Ministerial

Committees to look into violations of Programme Code and Advertising Code respectively either suo-motu or on receipt of a specific complaint. Many advertisements and some programmes have been prohibited from transmission/re-transmission on recommendations of these Committees.

20. u/s 20(2) of the Act, Government has powers to prohibit transmission or re-transmission of any channel or programme on certain grounds which includes public order, decency or morality. The transmission of a TV Channel namely "REN TV" has been prohibited within the territory of India on this ground recently.

21. The Advertising Standards Council of India, an industry body, has prescribed guidelines, for Advertisers for production and telecast of advertisements. Any body can complain before the Council if he/she finds any advertisement offensive.

22. The Indian Broadcasting Foundation, an umbrella organisation of Broadcasters also undertakes periodic review of advertisement to be telecast by its members. Recently the Foundation took important stand in the matter of Political advertisements.

23. The Government has enacted the Indecent Representation of Women (Prohibition) Act, 1986 to prohibit indecent representation of women through advertisement or in publication, writings, paintings, figures or in any other manner, for which the Department of Women and Child Development, Ministry of Human Resource Development is the nodal authority.

24. Carefully perused the relevant provisions of law and the report submitted by the Committee as well as the reply submitted on behalf of the State of Rajasthan and Union of India. We also considered the suggestions given by the Committee and the provisions, which are enacted by the respondents to recall and check the print media, television, cinema and posters etc. No doubt the Press and Registration of Books Act, 1867 is there to recall the publication in the newspapers. There are provisions under the Act to take action against the publication made in contravention of any provision of the Act and the Magistrate is empowered to authenticate a declaration u/s 6 of the PRB Act.

25. We hardly find any single case and single illustration given by UOI and State of Rajasthan taken under the Press and Registration of Books Act, 1867. It is hard fact that everyday the newspapers are depicting the indecent and undignified image of women. It clearly appears that the agencies are not serious to take recourse under the statute. Now it is a right time to check such indecent and undignified depiction of women to save the society and in the interest of society at large.

26. It is no doubt that there are provisions under Indecent Representation of Women (Prohibition) Act, 1986, which empowers the respondents to initiate action against any newspaper/periodical published in the country on the basis of its contents. But again the respondents have utterly failed, to implement the provisions of the Indecent Representation of Women (Prohibition) Act, 1986.

27. There is regulatory authority of publication of newspaper and Press Council of India, a statutory quasi-judicial authority has been set up under the Press Council Act, 1978 with the objective of preserving the freedom of the press and of maintaining and improving the standards of newspapers and news agencies in India.

28. To prevent the degrading portrayal of women by the media, the Press Council has already laid down norms but it is to be seen by the authorities whether these norms as laid down by the Press Council under the Press Council Act 1978 has been followed or not in true and letter spirit. Similarly an Expert Committee is set up by the National Commission for Women to keep an eye on gender exploitation by the media.

29. Again it is sorry affair of the State-not to comply with the suggestions and directions given by such expert committee constituted by the National Commission for Women.

30. Similar lacking is with the Prasar Bharati, who is controlling authority of Doordarshan and All India Radio. Before telecasting and broadcasting the programmes of all Satellite Channels, transmitted/re-transmitted through the Cable Network, are required to adhere to the programmes and advertising codes prescribed under the Cable Television Networks (Regulation) Act, 1995 and Rules framed thereunder.

31. Since the cable network is rapidly expanding throughout the country through Doordarshan and other satellite channel, in such circumstances before telecasting/ broadcasting the programmes under the Cable Television Networks (Regulation) Act 1995, it is expected from the respondents to verify whether the programmes, which are going to telecast, are as per the regulations or not.

32. In case any programme is telecasting and broadcasting in violation of Rule 6(1)(k) of the Cable Television Networks Rules, 1994 and it is found indecent or derogatory to women, or is likely to deprive, corrupt or injure the public: morality or morals, the strict action is required to be initiated against such telecasting and broadcasting and against the responsible persons. Same action is required to be taken against the person responsible for hoardings, advertisement and posters. The District Magistrate or Sub Divisional Magistrate or a Commissioner of Police are required to take steps u/s 19 of the Act to prohibit transmission of certain programmes in public interest if found violative of the prescribed Programme Code and the Advertising Code.

33. The Government has enacted the Indecent Representation of Women (Prohibition) Act, 1986 but there is lack of implementation and enforcement of such acts and regulations.

34. In view of the aforesaid discussions, we deem it proper to direct the respondents to take steps as per the aforesaid acts and the rules and shall also ensure that the advertisements, which are not following the rules and the

regulations must be discontinued. Using scantily clad female models for products like car batteries, tobacco, electric inverters, shaving appliances and other advertisements should be stopped forthwith.

35. The Censor Board should ensure to give "A" certificate to the adult films and it will be displayed in more healthy and less revealing manner at public places and near cinema halls.

36. The State Government is directed to constitute a District Level Committee to implement the Indecent Representation of Women (Prohibition) Act, 1986 under the Chairmanship of the District Collector with official and non-official organisations working for women's empowerment, jurists and cinema hall owners etc, as members in it.

37. The Union of India is directed to authorise a responsible person to ensure strict compliance of the Cable Television Networks (Regulation) Act, 1995 and Rules framed thereunder and the provisions of Indecent Representation of Women (Prohibition) Act, 1986.

38. The Union of India shall take the cooperation from the state agencies to ensure strict compliance of the aforesaid acts and rules. The compliance should be made in true and letter spirit. It should not be a mere formality to give the statistics and details of action taken by Union of India and State Government. The concrete steps should be taken to prevent the depiction of women in an undignified manner through broadcasting, telecasting and advertisements etc. and the prompt steps shall require to be taken against the responsible persons.

39. With these observations, we dispose of the writ petition with the expectation from the Union of India and the State Government that they shall take immediate steps to this effect as indicated hereinabove.