

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF JUNE
TWO THOUSAND AND FIFTEEN
PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.15355 of 2015

BETWEEN

Andhra Association of Telangana.

... PETITIONER

AND

The Union of India, Rep. by its Central Board of Film Certification, Hyderabad Chapter,
Telangana State and others.

...RESPONDENTS

The Court made the following:

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-
-

ORDER:

At the stage of admission, I have heard the learned counsel for the petitioner appearing in the place of party-in-person, learned Assistant Solicitor General appearing for first respondent, learned Government Pleader for Women Development and Child Welfare appearing for fourth respondent and Mr. M. Surender Rao, learned senior counsel, appearing for the fifth respondent. Respondents 2 and 3, the Department of Cinematography and the Telangana Film Chamber of Commerce, are not involved in the certification of the film in controversy and respondents 6 and 7, being actress and distributor, are not necessary to be heard.

2. Petitioner questions the title of the film 'Andhra Pori', which is proposed to be exhibited on 05.06.2015. Petitioner states that after bifurcation of the State there are many people from Andhra area settled and residing in Telangana State and depiction of the name of the film as aforesaid is likely to be misutilized by way of degrading the values of girls in Andhra area and residents originating from Andhra area settled in Telangana area.

3. For the purpose of appreciating the exact objection of the petitioner, it is appropriate to extract para 8 of the affidavit, as under, which, *inter alia*, states that the word 'Pori' suffixed to the title of the film is objectionable. Petitioner, therefore, seeks that the exhibition of the film with the aforesaid title be interfered with by this Court as it amounts to showing disrespect to the girls of young/marriageable age of Andhra region.

"8. I submit that the very selection of the name "**Andhra Pori**" is combination of Two States slang, the earlier prefix Andhra is from Andhra slang is the name of the region of Andhra state and the suffix Pori is Telangana used Slang which literally means the Girl of a young age/marriageable age. This synomos of Pori are Ammayi, Pilla, Yuvathi, Bidda form the respectable pronunciation of calling a girl of youth age on the other hand the words Guntadi, Kurradi, Pori are form the objectionable pronunciation to de-grade the self respect of the girl of young age promoting/raising the modesty of the girl of youth age which is within the meaning of definition under section 2 subsection (a) of Indecent representation of women (prohibition) Act, 1986 which reads as follows:

"Advertisement "includes any notice, circular, liable, wrapper, or other documents and also includes any visible Representation made by means of any light, sound, smoke

or gas.“

4. Learned counsel for the first respondent has contended that the Central Board of Film Certification has appointed an examining committee, which has certified the film for unrestricted universal public exhibition. The file of the first respondent is placed before this Court, which shows that the Board required an examining committee to examine the film and then suggest its opinion and the report of the committee states that it had held detailed discussion on the film, treatment and presentation of the film in the light of the guidelines issued by the Government under Section 5B (2) of the Cinematograph Act, 1952 (for short ‘the Act’) and suggested deletion of certain words from the portion of the film and also suggested a visual to be shown in a flash by referring to guidelines 2(viii), 2 (xii) and 2 (vii) respectively and recommended to grant ‘U’ certificate with cuts unanimously. Accordingly, certificate was issued by CBFC on 28.05.2015, after being satisfied with the modifications suggested by the Board have actually been carried out.

5. Mr. M. Surender Rao, learned senior counsel appearing for respondent No.5, has placed strong reliance upon Section 3 of the Act, which provides that the Board shall consist of a Chairman and not less than 12 and not more than twenty-five other members appointed by the Central Government and such large body is entrusted with the certification of the film. Learned senior counsel also points out that the Board appoints an examining committee for the purpose of carrying out the functions under Rule 22 of the Cinematograph (Certification) Rules, 1983. Sub-sections 2, 9, 13 and 14 of Rule 22 provide as follows:

“22. Examining Committee. (1) ...

(2) The Examining Committee shall consist of, -

(a) in the case of a film, a member of the advisory panel and an examining officer either of whom shall be a woman and

(b) in the case of a long film, four members of the advisory panel and an examining officer of whom two persons shall be women;

Provided that if the examining officer is unavoidably absent at the examination of a film, the Examining Committee shall consist of two members of the advisory panel in a case falling under clause (a) and five members of the advisory panel in a case falling under clause (b);

Provided further that in the Examining Committee, in a case falling under clause (a) one member shall be a woman and in a case falling under clause (b) two members shall be women.

...

...

9) Immediately after the examination of the film each member of the Examining Committee attending the examining shall before leaving the preview theatre record his opinion in writing in Form VIII set out in the Second Schedule spelling out in clear terms the reasons therefore and state whether he or she considers-

(a) that the film is suitable for unrestricted public exhibition. i.e. fit for 'U' certificate; or

(b) that the film is suitable for unrestricted public exhibition but with an endorsement of caution that the question as to whether any child below the age of twelve years may be allowed to see the film should be considered by the parents or guardian of such child. i.e. fit for 'UA' certificate; or

(c) that the film is suitable for public exhibition restricted to adults, i.e. fit for 'A' certificate; or

(d) that the film is suitable for public exhibition restricted to members of any profession or any class of persons having regard to the nature, content and theme of the film of the film, i.e. fit for 'S' certificate; or

(e) that the film is suitable for 'U' or 'UA' or 'A' or 'S' certificate as the case may be if a specified portion or portions be excised or modified there from; or

(f) that the film is not suitable for unrestricted or restricted public exhibition, i.e. that the film be refused a certificate.

and if the Chairman is away from the regional centre where the film is examined, the form aforesaid shall be prepared in duplicate.

...

(13) It shall be the personal responsibility of the examining officer to examine whether each and every guideline issued by Government has been followed and to bring any lapse or deviation to the notice of the Chairman.

(14) The quorum for the Examining Committee for a long film shall be four of whom at least two persons shall be women.”

6. In terms of the aforesaid rules the examining body, in the present case, has examined the film and recommended it for giving ‘U’ certificate subject to the cuts directed by it and accordingly,

the certificate has been issued after complying with the said requirement.

7. Learned counsel for the petitioner states that the objection in this writ petition is only with regard to the title of the film and the film, as such, is not yet released and its contents are not known and that the film is stated to be a Telugu version of Marathi film by name ‘Time Pass’.

8. While there appears to be no objection with respect to the contents of the film, the issue in this writ petition is only with regard to the title. During the hearing of this writ petition, while the learned counsel for the petitioner tried to object the word ‘Pori’ as a slang, learned standing counsel and learned senior counsel emphatically state that it is neither an un-parliamentary word nor is a word amounting to slang but is generally referred to as a word describing a girl. Learned senior counsel has pointed out para 8 of the affidavit, extracted above, where the petitioner himself accepts that the said word is synonymous to Ammayi, Pilla, Yuvathi, Bidda etc. Hence, it cannot be said that the said word is slang.

9. Moreover, the certification of the film by the Board is required to be in conformity with the guidelines stipulated by the Government of India and I had an occasion to examine the said guidelines while deciding WP.No.30376 of 2011 under judgment dated 01.12.2011 reported as **VADLAPATLA NAGA VARA PRASAD v. CHAIRPERSON, CENTRAL BOARD OF FILM CERTIFICATION**. Section 5B of the Act together with guidelines was extracted in the aforesaid decision and it is appropriate to reproduce the said portion hereunder:

“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

of¹[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.

“GOVERNMENT OF INDIA

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 6th December, 1991.

NOTIFICATION

S.O.836-(E) In exercise of the power conferred by sub-section (2) of Section 5 B of the Cinematograph Act, 1952 (37 of 1952) and in supersession of the notification of the Government of India in the Ministry of Information and Broadcasting No.S.O.9(E), dated 7th January 1978, except as respects things done or omitted to be done before such supersession, the Central Government hereby directs that in sanctioning films for public exhibition, the Board of Film Certification shall be guided by the following principles: -

1. The objectives of film certification will be ensure that –
 - a. the medium of film remains responsible and sensitive to the values and standards of society;
 - b. artistic expression and creative freedom are not duly curbed;
 - c. certification is responsive to social change;
 - d. the medium of film provides clean and healthy environment; and
 - e. as far as possible, the film is of aesthetic value and cinematically of a good standard.
2. In pursuance of the above objectives, the Board of Film Certification shall ensure that –

(vii) human sensibilities are not offended by vulgarity, obscenity or depravity;

...

(ix) scenes degrading or denigrating women in any manner are not presented;

(x) scenes involving sexual violence against women like attempt to rape, rape or any form of molestation, or scenes of similar nature are avoided, and if any such incident germane to the theme, they shall be reduced to the minimum and no details are shown:

(xi) scenes showing sexual perversions shall be avoided and if such matters are germane to the theme, they shall be reduced to the minimum and no details are shown;

...

(xviii) visuals or words involving defamation of any individual or a body of individuals, or contempt of court are not presented:

EXPLANATION: Scenes that tend to create scorn, disgrace and disregard of rules or undermine the dignity of court will come under the term "contempt of Court"

In this connection, a decision of the Supreme Court in **DIRECTOR GENERAL OF DOORDARSHAN v. ANAND PATWARDHAN** [(2006) 8 SCC 433 : AIR 2006 SC 3346] was also noticed wherein the Supreme Court laid down the tests required to be applied while examining the mandate of Article 19 of the Constitution of India. Para 16 of the decision in **VADLAPATLA NAGA VARA PRASAD's** case (1 supra) to the extent relevant is extracted hereunder:

"16. In another decision in **DIRECTOR GENERAL OF DOORDARSHAN's** case (3 supra) the Supreme Court has observed as follows:

32. Therefore, one can observe that, the basic guidelines for the tier of fact must be:

(a) whether " the average person, applying contemporary community standards" would find that the work, taken as a whole, appeals to the prurient interest.;

(b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and

(c) whether the work, taken as a whole, lacks serious literary, artistic political, or scientific value.

33. The Constitution of India guarantees everyone the right to freedom of expression. India is also a party to the International Covenant on Civil and Political Rights and therefore bound to respect the right to freedom of expression guaranteed by Article [19](#) thereof, which states:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds regardless of frontiers, either orally, in writing or in print, in form of art, or through any other media of his choice.

34. This right guaranteed by the Indian constitution is subject to various restrictions. Like, respect of the rights or reputation of others; protection of national security or of public order, or of public health or morals etc. The catchword here is 'reasonable restriction' which corresponds to the societal norms of decency. In the present matter, the documentary film Father, Son and Holy War depicts social vices that are eating into the very foundation of our Constitutional. Communal riots, caste and class issues and violence against women are issues that require every citizen's attention for a feasible solution. Only the citizens especially the youth of our Nation who are correctly informed can arrive at a correct solution. This documentary film in our considered opinion showcases a real picture of crime and violence against women and members of various religious groups perpetrated by politically motivated leaders for political, social and personal gains.”

10. From the above, it is evident that the examining committee as well as the Board, which consist of large representative body including women members, was satisfied with the film and certified it for universal exhibition by granting ‘U’ certificate. Undoubtedly, the judicial review is still available against the said certificate, but on the facts and circumstances of the present case, the petitioner has not been able to establish any such infringement vis-à-vis the freedom of expression guaranteed under the Constitution of India. The certification of the film and its proposed exhibition, therefore, cannot be interfered with merely on the perception of the petitioner. This Court, therefore, is of the view that the petitioner has failed to establish even, *prima facie*, tenability of the contentions. Hence, no interference is called for.

The writ petition is dismissed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

June 4, 2015

DSK