

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CWP No. 9417 of 2016
Date of decision :13.05.2016

Bikramjeet Singh and anotherPetitioners

Versus

Union of India and othersRespondents

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

Present: Mr. S.P.S. Aulakh, Advocate, for the petitioners.

Paramjeet Singh Dhaliwal, J. (Oral)

The instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the official respondents No. 1 to 5 to ban the screening of film "Sarbjit" as no sanction or consent has been taken by the respondent No. 6 to 8 from petitioner No. 2 nor its script has been discussed with him.

The case set up by the petitioner in the writ petition is to the effect that film 'Sarbjit' is based on the life of Sarbjit Singh who is related to petitioner No. 2 and was confined in Kot Lakhpat Jail, Lahore, Pakistan. In the said film, Mr. Ankur Bhatia is playing the role of petitioner No. 2 as a husband of Smt. Dalbir Kaur, sister of said Sarbjit Singh. The said film has been produced by respondents No. 6 and 7 and directed by Sh. Umung Kumar, respondent No. 8. The producers and director have not discussed the script of the said film with the petitioners.

I have heard the learned counsel for the petitioners and perused the paper book.

The writ petition is lacking in many aspects, there are no pleadings to show that the petitioner No.2 falls in the category of class I heirs under the Hindu Succession Act,1956 nor any other material has been placed on record to show his relationship with Sarbjit Singh or his visits to Pakistan concerning confinement of Sarbjit Singh there. The petitioners are not aware of the story of the film nor even its details have been extracted in the petition. The grievance of the petitioners is that the script of the film has not been discussed with them. The film will affect the privacy of the petitioner No. 2 who is closely related to the said Sarbjit Singh. Learned counsel for the petitioners relies upon judgment of the Hon'ble Supreme Court in the case of **R. Rajagopal @ R.R. Gopal Vs. State of Tamil Nadu, AIR 1994 SCW 4420**. The judgment cited is not at all applicable to the facts of present case. There are no pleadings to show as to how the privacy of the petitioners will be affected. The contention of the learned counsel for the petitioners that petitioner No.2 had gone to Pakistan for release of Sarbjit Singh is devoid of merit. To substantiate this no material has been placed on record.

Article 19(1)(a) of the Constitution guarantees to all the citizens freedom of speech and expression subject to reasonable restrictions under Article 19(2) of the Constitution. Article 19 envisages the concept to 'speak freely' which is an integral part of democracy. Films have also been accepted as a form of speech and expression. The power to legislate, on censorship of films, vests in the

Parliament according to Entry 60 of the Union List of the Schedule VII of the Constitution. The States can also make laws in this regard under Entry 33 of the State List but subject to the provisions of central legislation. The certification of films for exhibition and regulation of their exhibition is governed by the Cinematograph Act, 1952 (for brevity hereinafter to be referred as “1952 Act”) and the Cinematograph Certification Rules, 1983 (for brevity hereinafter to be referred as “Rules”). The certificate for public exhibition of a film is issued by the Central Board of Film Certification (hereinafter to be referred as “Censor Board”). The Censor Board decision can be challenged in appeal before the appellate tribunal. The revisional power vests in Central government under Section 6 of the 1952 Act.

In the review appearing in newspapers, said film has been described as biographical film and is based on the life of Indian farmer Sarbjit Singh, who strayed into Pakistan and caught by the Pakistan army, was convicted for alleged terrorism and spying in Pakistan and sentenced to death. He died in a hospital following a brutal attack by fellow prisoners in Kot Lakhpat Jail, Lahore.

The film in question is on the life of a person and is an informative film. The freedom of speech and expression includes right to acquire information and to disseminate it to the public at large. The citizens of India have a right to be informed of the developments taking place in the country and outside the country. When a film is banned, it does not only affect the freedom of speech and expression of the director or the producer, it also affects the financial and economic aspects of many people. Film making,

distribution and screening are essential aspects of films business, which is guaranteed under Article 19 (1)(g) of the Constitution

In view of the above, the instant petition is dismissed in limine.

13.05.2016

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(Paramjeet Singh Dhaliwal)
Judge