

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2017

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH
and
THE HON'BLE Mr. JUSTICE M.SUNDAR

W.P.No.27470 of 2017
and
W.M.P.No.29360 of 2017

A.Ashvathamam .. Petitioner

Vs.

1.The Government of India
rep. by Secretary to Government,
Ministry of Information and
Broadcasting, New Delhi.

2.The Central Board of Film
Certification rep. by its
Regional Officer,
35, Haddows Road,
Shastri Bhavan, Chennai - 6.

3.Sri Thenandal Films rep. by its
Safwaan Salim,
1 to 8, Kamarajapuram,
Nungambakkam, Chennai - 17.

4.Joseph Vijay Chandrasekar .. Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the first respondent to revoke the Censor Certificate for public exhibition issued to the Tamil feature film 'Mersal'.

For Petitioner : Mr.A.Ashvathamam,
Party - in - person

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

This pro bono publico is filed by the petitioner, who is a practising lawyer, seeking a direction to the first respondent to revoke the censor certificate issued by the second respondent for the movie 'Mersal'.

2.The petitioner would submit that some of the scenes in the movie depicted wrong facts with reference to operation of G.S.T. It has been wrongly stated that G.S.T. is collected at 28% in India as against 7% in Singapore, but, no free medical aid is provided in India as being done in Singapore. The fact remains that the slab has been fixed for collection of G.S.T. upto a maximum of 28%. Similarly, another factual assertion has been made that GST is not being charged on the liquor. These wrong facts as portrayed in the film would constitute affront to the sovereignty of the country. The film being the powerful medium, the general public, would be carried away by the wrong message sought to be conveyed. The second respondent ought not to have given the certification, which also involves non-application of mind. Therefore, this is a fit case where a direction will have to be issued to the first respondent to act in accordance with Section 6 of the Cinematograph Act, 1952 (hereinafter referred to as 'the Act').

3.The petitioner cannot be stated to be a person aggrieved. After all, the second respondent is the competent authority to consider as to whether the film requires a proper certification or not. The certification given by the second respondent has not been put into challenge. In a matured democracy, view of the minority has to be allowed to be expressed. The question as to whether the said view is palatable or not can never be the one for debate. We are unable to see any non-application of mind involved as the petitioner has failed to substantiate it.

4.Much has been said on Section 6 of the Cinematograph Act. Section 6(1) of the Act speaks about the suo motu powers to be exercised by the first respondent, that too after due notice. Therefore, no reliance can be placed upon it. Section 6(2) of the Act speaks about an interim measure, that too, for a period of two months from the date of the Notification and thus has no application. This provision also mandates a prior notice. We do not find any material to press into service the aforesaid provisions in a case of this nature.

5.The petitioner has rushed to this Court in a hurry after giving a representation on 20.10.2017 - Friday at about 8 p.m. The writ petition was filed on 23.10.2017 (Monday). Therefore,

without even waiting for the first respondent to act, even for exercising his power, if otherwise exercisable under Section 6 (2) of the Act, the petitioner has rushed to this Court.

6. Even on merits, we do not find any case made out. The depiction in the movie is nothing more than an expression. It is for the movie goers to look it in their own perspective. Nobody can be forced to see the movie. Ultimately, it is the choice of an individual. Therefore, we do not find any merit in this writ petition. The decision relied upon by the petitioner in A.Arulmozhi Vs. Government of India ((2005) 3 MLJ 497) has to be seen in its own context. After all, we are not dealing with the case of extreme vulgarity or obscenity as against the opinion expressed by one of the characters in a movie, which has been taken note of by the second respondent, after applying its mind, while granting the certificate.

7. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Ministry of Information and
Broadcasting, New Delhi.

2. The Regional Officer,
Central Board of Film Certification,
35, Haddows Road,
Shastri Bhavan, Chennai - 6.

+2cc to Mr.S.Vijayan, Advocate SR. 76205

W.P.No.27470 of 2017

VR(31/10/2017)