

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.06.2018
CORAM
THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.13590 of 2018 and
W.M.P.No.16020 of 2018

J.Muthuramesh @ Rameshkumar Nadar
Petitioner

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Vs.

- 1.Union of India
rep by its Secretary to Government,
Central Board of Film Certification,
Shastri Bhavan, 35, Haddows Road,
Chennai - 600 006.
 - 2.The Secretary,
Information and Public Relations Department,
Secretariat, Chennai - 600 009.
 - 3.The Commissioner of Police,
Office of the Commissioner of Police,
Vepery, Chennai - 600 007.
 - 4.Shivajirao Gaikward @ Rajnikant
 - 5.K.Dhanush
 - 6.P.Ranjith
- Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to consider the representation dated 05.06.2018 sent by the petitioner to the respondents as quickly as possible.

For Petitioner : Mr.S.Sugendran

For Respondents : Mr.J.Madhanagopal Rao, S.P.C.C.G (R1)

Mr.V.Jayaprakash Narayanan,
Special Government Pleader (R2 & R3)

Mr.P.R.Raman, Senior Counsel
for Mr.C.Seethapathy (R4 to R6)

O R D E R

Muthuramesh @ Rameshkumar Nadar has filed the present Writ Petition seeking for a Writ of Mandamus to direct the respondents to consider his representation dated 05.06.2018 as quickly as possible.

2.The learned counsel appearing for the petitioner pleaded that one late Thiraviya Nadar attained several historical achievements in the Mumbai City and he was also

called as Kuduvala Sait. In the year 1956, when the Tamil people went to Mumbai in search of their livelihood, the said Thiraviya Nadar has protected them from caste feeling. As the said Thiraviya Nadar protected all the Tamilians, he was considered as one of the Heroes. Moreover, he has also built up a Tamil Sangam in Mumbai and was also helping people who were unemployed.

3. Based on the historical achievements and also based on the life of late Thiraviya Nadar, a film story has been developed. As this was causing damage to the sentiments of the Thiraviya Nadar family and his community, the petitioner has given a representation on 05.06.2018, requesting the respondents to take suitable action against the release of the movie "Kaala". Since the petitioner came to know that the movie titled "Kaala" is to be released in a day or two, he has been advised to come to this Court seeking a Mandamus directing the respondents to consider the pending representation dated 05.06.2018.

4. Opposing the said prayer, Mr. P. R. Raman, learned senior counsel appearing for the respondents 4 to 6, urged this Court to dismiss the Writ Petition. If the petitioner is aggrieved, he cannot maintain the present Writ Petition with a prayer seeking to direct the respondents to consider the representation inasmuch as the Central Board of Film Certification, Government of India, the 1st respondent had already issued the UA certificate on 02.04.2018. After examining the film by the members of the Examining Committee and on the recommendation of the Examining Committee, the Board have certified that the film is fit for public exhibition with an endorsement of caution that for any child below the age of 12 years may be allowed to see the film, should be considered by the parents or guardian of the child. The petitioner, till date has not questioned the validity of the Certificate issued by the Central Board of Film Certification. That apart, in similar circumstances, when a similar Writ Petition came up before the Hon'ble Supreme Court in the case of Viacom 18 Media Private Limited and others Vs. Union of India and others, reported in (2018) 1 Supreme Court Cases 761, the Apex Court held that after the issuance of Certificate under the Cinematograph Act, 1952, by the Expert Committee, which had seen the movie, critically examined it and finally granted the Certificate for screening the movie, there is a prima facie presumption that the Authority concerned has taken into account the guidelines, including public order. Hence, the petitioner cannot now maintain the present Writ Petition for a direction to consider the representation without even challenging the Certificate issued by the Central Board of Film Certification.

5. This Court could also see from the four page affidavit filed by the petitioner that the first one and a half pages have been devoted to the cause title, the fourth page of the

affidavit has also been devoted to the prayer portion. The remaining one and a half pages do not throw any light on the fact as to how the movie title "Kaala" has belittled the goodwill, reputation and image of the family of late Thiraviya Nadar. That apart, the petitioner has not averred anywhere in the affidavit filed in support of the Writ Petition that he has been authorized by the family members of late Thiraviya Nadar to file the present Writ Petition.

6. However, when this Court posed a question to demonstrate whether he has got any locus standi to maintain the Writ Petition, subsequently, when the matter was taken up today, a letter containing four lines was produced before this Court to show that only with the consent of the family members of late Thiraviya Nadar, the present Writ Petition has been filed. Such a letter clearly shows that the Writ Petition has been filed without any approval from the family of late Thiraviya Nadar.

7. Even if it is assumed that this petition has been filed with the consent of the family members of late Thiraviya Nadar, looking into the averments made in the affidavit filed in support of the Writ Petition, this Court is unable to find a single word against late Thiraviya Nadar or against any particular community. As a matter of fact, the affidavit filed in support of the Writ Petition, in my considered opinion, is bereft of any merits, warranting examination. In addition thereto, when the movie titled "Kaala" has been scheduled to be released today (i.e.) 07.06.2018, the petitioner has sent his representation by Registered Post only at 12.49 pm on 05.06.2018. It is not known as to why either the petitioner or the family members of late Thiraviya Nadar have not raised up to question the validity or the correctness of the Certificate issued by the Central Board of Film Certification, way back on 02.04.2018. That apart, the prayer made in the Writ Petition is also so vague that a direction has been sought to the respondents. When the petitioner has given a representation only on 05.06.2018, it is not known how the petitioner seeks for a mandamus from this Court to direct the respondents to consider the representation dated 05.06.2018, which could not have reached the respondents 1 to 3 even by now. Therefore, this Court could see from the above facts that the petition has been filed at the eleventh hour seeking some unwanted publicity, as mentioned by the learned senior counsel appearing for the respondents 4 to 6. Above all, this Writ Petitioner avers that family reputation of Late Thiraviya Nadar has been sabotaged, whereas the son of Thiraviya Nadar sought for some recognition for his family in the movie. Therefore, I am of the view that the prayer in the Writ Petition is misconceived.

8. The learned Special Government Pleader appearing for the respondents 2 & 3 also urged this Court to dismiss the

Writ Petition and further submitted that when the petitioner had pleaded in the Writ Petition that there would be law and order problem if the movie is allowed to be released, he has not impleaded the necessary parties viz., the Home Secretary and the Director General of Police. This also shows that the petitioner had hurriedly filed the Writ Petition.

9. As per the ratio laid down by the Apex Court in the judgment cited supra, when once the Certificate has been issued by the Central Board of Film Certification, in the present case on 02.04.2018, certifying for the screening of the movie in question, there is prima facie presumption that the authority has taken into account all the guidelines, including public order. Therefore, for all the above said reasons, this Court does not find any merit in the matter and hence, the Writ Petition is liable to be dismissed.

10. In such view of the matter, the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Union of India, Central Board of Film Certification,
Shastri Bhavan, 35, Haddows Road,
Chennai - 600 006.
 2. The Secretary,
Information and Public Relations Department,
Secretariat, Chennai - 600 009.
 3. The Commissioner of Police,
Office of the Commissioner of Police,
Vepery, Chennai - 600 007.
- + 1 cc to Mr. S. Sugendran, Advocate Sr.35807
+ 1 cc to Mr. C. Seethapathy, Advocate Sr.35628
+ 1 cc to Mr. J. Madhanagopal, Advocate SR.35767
+ 1 cc to Government Pleader SR.35801

W.P.No.13590 of 2018 and
W.M.P.No.16020 of 2018

(CS-DR)

EU (29/06/2018)

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