

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.297 OF 2019

Ritu Ruhil	}	Petitioner
versus		
The Central Board of Film	}	
Certification and Ors.	}	Respondents

Ms.Ankita Singhania with Ms.Jyoti Singh and
Mr.Mayank Samuel for the Petitioner.

Mr.Advait M.Sethna with Mr.D.P.Singh for the
Respondents.

**CORAM :- S. C. DHARMADHIKARI &
R. I. CHAGLA, JJ.**

DATED :- JANUARY 22, 2020

P.C. :-

1. This petition under Article 226 of the Constitution of India challenges the order of the Appellate Tribunal under the Cinematograph Act, 1952 refusing to condone the delay in filing of an appeal. That appeal was filed invoking section 5C of the Cinematograph Act, 1952 by the present petitioner.

2. The Tribunal has held that as per its understanding and interpretation of the proviso below sub-section (1) of section 5C of the Cinematograph Act, 1952, it cannot entertain Appeal No. 14 of 2018 of the petitioner-appellant. It will have to be dismissed as time barred. This order was passed on 5th August, 2018.

3. After this petition was heard for some time, we requested Mr.Sethna appearing for the respondents to this petition to take instructions as to whether the Film Certification Appellate Tribunal will hear and decide this appeal on merits and in accordance with law. The counsel sought time to take instructions and the matter, therefore, was posted today.

4. On instructions, Mr.Sethna says that the Tribunal will hear the appeal of the petitioner on merits and in accordance with law, but the concession by the Tribunal in this case/ appeal should not be treated as a precedent in other cases. His request is that the question of law can be kept open for decision in an appropriate case, but in the present matter, the appeal would be heard by the tribunal on merits and in accordance with law.

5. In the light of the instructions received by Mr.Sethna and the statements made by him, which are accepted as undertakings given to this court, we quash and set aside the impugned order. By consent, we restore Appeal No.14 of 2018 filed by the petitioner to the file of the Appellate Tribunal and to be heard on merits and in accordance with law. We clarify that this order shall not be treated as a precedent in similar cases. We have not decided the question of law arising in this matter and we are of the opinion that it should be decided in a more deserving and appropriate case.

Equally, our present order does not express any opinion on the merits of the appeal. All contentions of both sides on the merits of the appeal are kept open.

6. The writ petition is allowed in the aforesaid terms. There would be no order as to costs.

(R.I.CHAGLA, J.)

(S.C.DHARMADHIKARI, J.)