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*Sharayu Khot.*

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

**WRIT PETITION (L) NO. 3846 OF 2018**

**Pahlaj Nanikram Nihalani**

**...Petitioner**

*Versus*

**The State of Maharashtra,  
through Principal Secretary,  
Ministry of Broadcasting And  
Information & Anr.**

**...Respondents**

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Mr. Ashok M. Saraogi, a/w Mr. Anand Mishra, for the Petitioner.

Mr. Amit Shastri, AGP, for the Respondent No. 1.

Mr. Advait M. Sethna, a/w Ms. Ruju Thakkar, i/by D.P. Singh,  
for Respondent No. 2.

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**CORAM : RIYAZ I. CHAGLA, J.  
(VACATION COURT)**

**DATE : 13 November 2018**

**ORDER :**

1. Heard the learned Counsel for the Petitioner and the  
learned AGP for the Respondent No. 1 as well as the learned

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Counsel for the Respondent No. 2.

2. This Petition was moved on 6th November 2018 before the Vacation Court wherein the Vacation Judge had granted liberty to move the matter before the regular Bench as per roster only after the lodging number was issued. At this stage, the learned Counsel for the Respondents was present. However, the matter was subsequently mentioned, when the Respondents' Counsel was not present and liberty was granted to mention on 12th November 2018. Accordingly, the matter was mentioned on 12th November 2018 and hence, the matter appears on today's board.

3. This Petition challenges the order dated 2nd November 2018 with regard to certification either of Universal or Universal with Adults to the film produced by the Petitioner titled "Rangeela Raja". This Petition further seeks to appoint a Committee to visualize the film produced by the Petitioner and put their suggestions before this Court.

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4. The learned Counsel for the Petitioner has brought to this Court's attention an order passed by this Court in *Phantom Films Pvt.Ltd. & Anr. Vs. The Central Board of Film Certification & Anr*<sup>1</sup> and in particular, paragraph 7 of the said order. He states that review contemplated by the Rules will take unduly long period of time to dispose of and hence, it is necessary for this Court to entertain this Petition. He states that in *Phantom Films Pvt.Ltd.* (supra) this Court had considered a similar situation where a preliminary objection was raised to the Petition on the ground of review being an alternate remedy available and this Court had considered it appropriate to hear the Petition on merits and rejected the preliminary objection.

5. The learned Counsel for the Respondent No. 2 has opposed the Petition on the ground that an alternate efficacious remedy is available in the form of review and also appeal to FCAT. In fact, it is provided in the impugned order that an Appeal to the revising committee can be made within 14 days and FCAT within 30 days. Hence, it is always open to the

<sup>1</sup> *Writ Petition (L) No. 1529 of 2016*

Petitioner to prefer the review/appeal before the concerned body and it is possible to have done this in time i.e. from 2nd November 2018, when the impugned order was passed. He states that the order of this Court in *Phantom Films Pvt.Ltd.* (supra) is clearly distinguishable on the facts. In that case the Chairman of the Tribunal was unavailable till 17th June 2016 and the date of release of the film was 17th June 2016 itself. Hence, this Court had considered that unfair prejudice will be caused to the Petitioner due to unavailability of the Chairman of the Tribunal. In fact, in that case a review had been filed which is clearly distinguishable in the facts of the present case where there has been no review filed despite the impugned order having been passed on 2nd November 2018. He therefore, states that it is not open for the Petitioner, to seek urgent relief and that an alternate remedy is available before the Revision Committee/FCAT.

6. I have considered the submissions. At this stage, I am not inclined to pass any order granting urgent *ad-interim*

relief. It would be more appropriate for the Petitioner to seek review of the impugned order dated 2nd November 2018 before the Revising Committee/FCAT. Further, although the impugned order was passed on 2nd November 2018, this Petition was moved only on 6th November 2018 before the Vacation Court. The previous Vacation Judge accordingly, granted liberty to move before the regular Bench as per roster after lodging number was issued. I also find that there was no urgency in moving the Vacation Court again as it was always open for the Petitioner to avail of his alternate remedies including review/appeal before the Revision Committee/FCAT from the date when the impugned order was passed i.e. from 2nd November 2018. Hence, no urgent *ad-interim* orders can be passed at this stage. The Petitioner is at liberty to move the regular Court after vacation.

7. It is clarified at this stage, that this Court has not gone into the merits of this Petition and all the contentions are kept open.

8. The learned Counsel for the Respondent No. 2 is at liberty to file an Affidavit in Reply to the Petition with the Registry. Copies of the Reply shall be served upon the Petitioner.

[RIYAZ I. CHAGLA J.]