



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

WRIT PETITION (L) NO. 27429 OF 2024

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Zee Entertainment Enterprises Ltd. .. Petitioner

Versus

Central Board of Film Certification & Anr. .. Respondents

Mr. Venkatesh Dhond, Senior Counsel a/w Tanvi Sinha, Navankur Pathak, Akshat Agrawal i/b. Saikrishna & Associates for the Petitioner.

Dr. Abhinav Chandrachud a/w Janay Jain, Manisha Mane Bhande & Akshay Arora i/b. Parinam Law Associates for the Respondent No.1.

Ms. Shreya Jha a/w Mohsin Ghariwala i/b. Siddharth Walawalkar Associates & Siddiquee & Associates for Respondent No.2.

**CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**

DATE: SEPTEMBER 4, 2024

P. C.

1. The above Writ Petition is filed seeking a writ of mandamus to Respondent No.1 [the CBFC] to communicate, produce as well as provide a

copy of **Certificate No. "DIL/2/368/2024-MUM"** already issued on 29th August 2024 in favour of the Petitioner's film "EMERGENCY" in the prescribed format, to the Petitioner/Respondent No.2. The Petitioner and Respondent No.2 are co-producers of the film "EMERGENCY" and there is no *inter-se* dispute between them.

2. The facts of the present case are in a very narrow compass. After the film "EMERGENCY" was produced, on 8th July 2024, Respondent No.2, through its founder, submitted an application on the e-cinepramaan portal to Respondent No.1 for certification of the film "EMERGENCY" for public exhibition. On 1st August 2024, Respondent No.1 informed Respondent No.2 (the co-producer of the said film) that screening of the film "EMERGENCY" is scheduled on 1st August 2024.

3. Thereafter, on 8th August 2024, Respondent No.1 issued a communication to Respondent No.2 [the co-producer] *inter alia* stating that the said film is suitable for Unrestricted Public Exhibition with an endorsement of caution, provided certain excisions and modifications listed in the Annexure to the said communication are carried out. In other words, the certification granted to the film was "UA" subject to the excisions and

modifications being carried out as more particularly set out in the Annexure to the said communication.

4. On 14th August 2024, the Petitioner and Respondent No.2 [co-producers of the film] submitted their co-produced film “EMERGENCY” with the necessary modifications and cuts as required by the CBFC.

5. Once this process was done, Respondent No.2, on 29th August 2024, at 4.16 pm, received an email from the CBFC which stated that the CD sealing had been done successfully and requested Respondent No.2 to collect the Certificate from the CBFC office. Another email was also received by Respondent No.2 on 29th August 2024, at 4.17 pm, stating that the Certificate for the film “EMERGENCY” has been generated successfully and also informed the Certificate Number, namely, DIL/2/368/2024-MUM.

6. Despite this, when the Petitioner and Respondent No.2 went to the office of the CBFC for collecting the signed Certificate, and which is required to be inserted at the beginning of every film being displayed for public exhibition, the same was refused to be handed over. This was on the

basis that certain groups of the Sikh Community found the trailer of the film “EMERGENCY” objectionable, and therefore, opposed the release of the film.

7. Since the said Certificate was not handed over by the CBFC, on 2nd September 2024, Respondent No.2 sent a legal notice to the CBFC for handing over the said Certificate, and to which there was no response. Hence, the present Petition.

8. In this factual backdrop, Mr. Dhond, the learned Senior Counsel appearing for the Petitioner, submitted that there is absolutely no reason why the CBFC ought to hold on to the Certificate that is already issued. He submitted that even under the provisions of the Cinematograph Act, 1952 and the Rules framed thereunder, if any person is aggrieved by the certification of a particular film, a legal remedy is provided for challenging the same under the said Act and the Rules. Once this is the case, the CBFC could not have held on to the said Certificate, and which was already issued, was the submission. It is on this short point that Mr. Dhond submitted that CBFC ought to be directed to issue the Certificate bearing No. DIL/2/368/2024-MUM to the Petitioner and/or Respondent No.2.

9. On the other hand, Dr. Chandrachud, the learned Counsel appearing for Respondent No.1, submitted that in law, the Certificate is not issued until it is signed by the Chairperson of the CBFC. If the Certificate is not signed, merely because an email has been issued stating that the Certificate is successfully generated, would make no difference. It is in this light and considering the objections received from certain groups of the Sikh Community that certification process is still on-going.

10. Dr Chandrachud then submitted that one organization called the *Jabalpur Sikh Sangat and Others* approached the Madhya Pradesh High Court by filing a writ petition opposing the release of the aforesaid film “EMERGENCY”. The Madhya Pradesh High Court, vide its order dated 3rd September 2024, has in fact permitted the Petitioners in that writ petition [namely, *Jabalpur Sikh Sangat and Others*] to file a comprehensive representation with the CBFC with regard to their objections to the certification of the movie “EMERGENCY”, and its trailer, within a period of three days from 3rd September 2024. The Madhya Pradesh High Court has further directed that on receipt of such representation, the CBFC shall consider the said objections to the film and also take expeditious appropriate steps in respect of the trailer, if so warranted, in accordance with law and the

rules framed thereunder before certifying the film. Dr. Chandrachud submitted that once this is the direction given by the Madhya Pradesh High Court, this Court cannot direct the CBFC to issue a Certificate to the film “EMERGENCY” without considering the objections of the *Jabalpur Sikh Sangat and Others* [the Petitioners before the Madhya Pradesh High Court]. He submitted that if we were to pass such a direction, it would amount to directing the CBFC to breach an order passed by another Court. For all these reasons, Dr. Chandrachud submitted that the directions sought for in the above Writ Petition could not be granted, at least at this stage.

11. We have heard Mr. Dhond, the learned Senior Counsel appearing for the Petitioner, and Dr. Chandrachud, the learned Counsel appearing for the CBFC. The facts in the present case are really undisputed. It is not in dispute that the film “EMERGENCY” was submitted to the CBFC for its certification. On 8th August 2024, the CBFC has issued a communication to Respondent No.2 certifying the said film as “UA” subject to certain modifications and excisions as more particularly set out in the Annexure to the aforesaid communication. On 14th August 2024, the co-produced film, with the necessary modifications and cuts as required by the CBFC, was submitted by the Petitioner/Respondent No.2. It is in this light that on 29th

August 2024, after the CBFC was satisfied with the modifications and cuts, an email was issued at 4.16 pm to Respondent No.2 informing them that the CD of the film “EMERGENCY” has been sealed successfully. For the sake of convenience, the aforesaid email is reproduced hereunder:

“-----Forwarded message-----

From:<noreply@ecinepramaan.gov.in>

Date: Thu, Aug 29, 2024 at 4:16 PM

Subject: Your CD has been Sealed successfully.

To:<manikarnikafilmspvtltd@gmail.com>

Dear Kangna Amardeep Ranaut,

Your CD Sealing has been scheduled. Your Acknowledgement No. 01012908202400010 for film EMERGENCY. Request you to collect the certificate from CBFC office.

Regards

Team CBFC”

12. Thereafter, on 29th August 2024, at 4.17 pm, another email was received by Respondent No.2 informing them that the Certificate for the film “EMERGENCY” has been generated successfully and the Certificate Number is “DIL/2/368/2024-MUM”. For the sake of convenience, the aforesaid email is also reproduced hereunder:

“-----Forwarded message-----

From:<noreply@ecinepramaan.gov.in>

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Laxmi

Date: Thu, Aug 29, 2024 at 4:17 PM
Subject: Certificate Issued successfully.
To:<manikarnikafilmspvtltd@gmail.com>

Dear Kangna Amardeep Ranaut,

Your Certificate for EMERGENCY has been generated successfully.

Your Acknowledgement No. is 100010292400005970.

Your Certificate No is DIL/2/368/2024-MUM.

Regards,

Team CBFC”

13. On perusing these emails addressed by the CBFC, at least prima facie, we are unable to accept the submission of Dr. Chandrachud that the Certificate for the film “EMERGENCY” cannot be said to have not been issued because it was not signed by the Chairperson of the CBFC. Once the Petitioner and Respondent No.2 complied with all the cuts and modifications as required by the CBFC, and the CD containing the film, with the cuts and modifications, was sealed by the CBFC, we have to presume that the CBFC applied its mind and thereafter issued the email communicating to Respondent No.2 that the CD of the film is successfully sealed. It is because of this that a subsequent email has been sent informing Respondent No.2 that the Certificate for the film “EMERGENCY” has been generated successfully. Once this was the position, all that the Chairperson had to do,

and was required to do, was to sign the Certificate and release the same to the Petitioner. We are unable to persuade ourselves that until the Chairperson signs the Certificate it is not issued. If we were to accept the argument of Dr. Chandrachud, it would mean that the Chairperson can refuse to grant the Certificate even though the makers of a film have complied with all the requisitions of the CBFC and the CBFC has informed the makers that everything is on order, and they can collect the Certificate from the office of the CBFC. At least prima facie, we do not think that the Chairperson has such unbridled powers. We, therefore, are unable to accept the submission of Dr. Chandrachud that even though the CBFC has informed Respondent No.2 (co-producer) that the Certificate is generated successfully, because it is not signed by the Chairperson, it is not issued.

14. Normally, the matter would have rested here. However, we cannot ignore the order of the Division Bench of the Madhya Pradesh High Court passed on 3rd September 2024. Before the Madhya Pradesh High Court, it was the submission of Union of India that the film “EMERGENCY” is not yet certified and is under examination in terms of the Cinematograph Act, 1952 and the Rules framed thereunder, and in case any further representation is received from any organization/body/individual, the same

shall be considered while considering the certification of the film. It is accepting this submission of the Union of India that the Madhya Pradesh High Court permitted the Petitioners before it to file a comprehensive representation to the CBFC with regard to their objections to the Certification of the film “EMERGENCY” [and its trailer], within a period of three days from 3rd September 2024, and on receipt of such representation, the CBFC was to consider the objections in an expeditious manner before certifying the film. The relevant portion of the Madhya Pradesh High Court order dated 3rd September 2024 is reproduced hereunder:

“(4) Learned Deputy Solicitor General further submits that in view of the instructions and in view of the fact that the Film has not yet been certified and is under examination in terms of the Cinematograph Act and the Cinematograph (Certification) Rules, in case any further representation is received from any organization/body/individual, the same shall be considered while considering the certification of the Film.

(5) As per the Board, the certificate has not been issued and the certification of the Film is under consideration of the Competent Authority.

(6) Learned counsel appearing for petitioners submits that a representation dated 30.08.2024 has already been sent to the Chairman of the Central Board of Film Certification objecting to the release of the Movie. He further submits that even the Trailer that has been released, has certain objectionable scenes. He submits that petitioners would like to give a supplementary comprehensive representation objecting to the certification of the Film as also the Trailer that is already being circulated.

(7) In view of the above, this petition is disposed of permitting the petitioners to file a comprehensive representation to the Central Board of Film Certification with regard to the objection to the certification of the Movie and the Trailer within a period of three days from today.

(8) On receipt of the representation, the Board shall consider the objections to the Film and also take expeditious appropriate steps in respect of the Trailer, if so warranted, in accordance with the Act and the Rules framed thereunder before certifying the Film.

(9) Needless to state that this Court has neither considered nor commented on the merits of the contentions of either parties. All rights and contentions of parties are reserved.”

(emphasis supplied)

15. We must mention that the facts set out by us above do not appear to have been brought to the notice of the Madhya Pradesh High Court when it passed its order dated 3rd September 2024. The Madhya Pradesh High Court passed the aforesaid directions on the basis of the statement made, on instructions, by the learned Deputy Solicitor General appearing for the Union of India, and which instructions appear to be incorrect and contrary to the facts on record before us. At least prima facie, we find force in the contention of Mr. Dhond, the learned Senior Counsel appearing for the Petitioner, that the Madhya Pradesh High Court has not gone into the issue at all as to whether a Certificate has already been issued or otherwise. That was not in issue before the Madhya Pradesh High Court. It is this light that

Mr. Dhond contends that there would be no impediment for this Court in directing the CBFC to release the Certificate certifying the film “EMERGENCY”, and which was already issued/successfully generated as per the email received by Respondent No.2 on 29th August 2024.

16. As mentioned earlier, though there may be some substance in the argument canvassed by Mr. Dhond, we are unable to pass this direction today in light of the fact that the Madhya Pradesh High Court has specifically directed the CBFC to consider the objections filed before it by the *Jabalpur Sikh Sangat and others*, before certifying the film. If we were to direct the CBFC to release the Certificate without considering those objections, we would effectively be directing the CBFC to breach an order passed by the Division Bench of another High Court. Judicial propriety demands that such a course should always be avoided. Considering these circumstances, we are of the view that at this stage, we are unable to direct the CBFC to release the Certificate as sought for by the Petitioner in the present Petition. We, however, do not dispose of the above Writ Petition and we direct the CBFC to consider the objections, if any, filed by the *Jabalpur Sikh Sangat and others* or any other person, as expeditiously as possible and thereafter take a decision on whether to release the Certificate for the film “EMERGENCY” to

the Petitioner or Respondent No.2. This entire exercise shall be done on or before 18th September 2024. We must add that we have laid down this timeline because the *Jabalpur Sikh Sangat and others* are directed to file their comprehensive representation on or before 6th September, 2024 [as per the order of the Madhya Pradesh High Court Order dated 3rd September 2024]. We must also clarify that these directions are passed without prejudice to the rights and contentions of the Petitioner in the above Writ Petition.

17. We now place the above matter for further consideration on 19th September 2024 under the same caption.

18. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.] [B. P. COLABAWALLA, J.]