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**IN THE HIGH COURT OF DELHI AT NEW DELHI**

**Date of Decision: 10.07.2025**

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W.P.(C) 9362/2025 & CM APPL. 39626/2025

MAULANA ARSHAD MADANI

.....Petitioner

Through: Mr.Kapil Sibal, Sr.Adv. with  
Mr.Fuzail Ahmad Ayyubi,  
Ms.Rashmi Singh, Ms.Rupali Samuel,  
Mr.Ibad Mushtaq, Ms.Akanksha Rai,  
Ms.Gurneet Kaur, Advs.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Chetan Sharma, Sr. Adv. (ASG)  
with Mr. Amit Tiwari, CGSC with  
Mr. Amit Gupta, Ms.Avshreya Pratap  
Singh Rudy, Mr.Vikramaditya Singh,  
Mr.Ayush Tanwar, Ms.Ayushi  
Srivastava, Mr.R.V.Prabhat, and  
Ms.Harshita Chatuvedi, Advs and  
Mr.Shivam Sachdeva, G.P. for R-1 &  
2.

Mr.Shreeyash Lalit with Mr.Pulkit  
Agarwal, Mr.Anubhav Tamta,  
Mr.Sudhanshu Kumar, Mr.Sudhanshu  
K, Mr.Lavam Tyagi, Advs for R-3.

Mr.Shreyash Lalit, Mr.Pulkit  
Agarwal, Mr.Sudhanshu Kaushesh  
and Mr.Anubhav Lamba, Advs for R-  
5.

Ms.Mamta Rani Jha with Mr.Rohan  
Ahuja, Ms.Shrutima Ehersa,  
Ms.Devangini Rai, Ms.Diya  
Viswanath, Advs for R-9.



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**CORAM:**  
**HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE ANISH DAYAL**

**DEVENDRA KUMAR UPADHYAYA, CJ. (ORAL)**

1. Heard Mr. Kapil Sibal, learned senior counsel for the petitioner, Mr. Chetan Sharma, learned ASG representing the respondent no.1 and 2, Mr. Shreeyash Lalit, and Mr. Pulkit Agarwal, learned counsel representing respondent no.3 and 5 respectively. Ms. Devangini Rai, has put in appearance for respondent no.9.

2. Proceedings of this Public Interest Litigation Petition have been instituted challenging the certification of the film “Udaipur Files” under Section 5A of the Cinematograph Act, 1952 (*hereinafter referred to as the ‘Act’*) which has been granted by the Board of Film Certification (*hereinafter referred to as “Board”*), a statutory body created under Section 3 of the Act.

3. Yesterday, this Court passed the following order:-

*“1. Mr. Chetan Sharma, learned ASG appearing for respondent nos. 1 and 2 has stated that before the film was certified by the Central Board of Film Certification, certain cuts were proposed by the Board which have been effected as well.*

*2. Learned counsel representing respondent no.3/ Producer of the film has stated that cuts as suggested by the Board have been implemented as well.*

*3. In these circumstances, we require the Producer to arrange for a screening of the film as well as trailer today itself, at some convenient time to all learned counsels representing the parties.*

*4. List on 10.07.2025.”*



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4. In compliance of the aforesaid order, screening of the film was organised, which was attended to by learned counsel for the parties or their representatives. Learned senior counsel for the petitioner has tendered a note after watching the film, which is taken on record. In reply to the said note/submissions, a note has been tendered by learned counsel representing respondent no.5, which is also taken on record.

5. At the outset, learned ASG for respondent no.1 and 2 as also learned counsel for respondent no.3, stated before the Court that hearing of this petition may be deferred in the wake of pendency of a writ petition before the Hon'ble Supreme Court, which is said to have been filed under Article 32 of the Constitution of India, seeking prayers similar to the ones made in the instant petition.

6. A news published by the news portal - Live Law News Network, dated 09.07.2025 is relied upon by the learned counsel for the respondents, and it is submitted that a mention for taking up the matter and fixing an early date in the writ petition filed before the Hon'ble Supreme Court was made, which was refused by the Hon'ble Supreme Court and while refusing the mention, the Hon'ble Supreme Court had also observed that, "*Let the film be released*".

7. The submission made is that in case the instant petition is entertained by this Court, there will be every possibility of multiplicity of the proceedings, as also multiplicity of the outcomes and accordingly, it is prayed that the proceedings of this petition may be deferred.

8. Learned senior counsel for the petitioner, however, submitted that it is only that a mention to take up the matter was made before the Hon'ble



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Supreme Court, which though was refused, however, no such order permitting release of the film was passed. Learned senior counsel for the petitioner informs the Court that upon mentioning before the Hon'ble Supreme Court, it was informed that the only observation made on such mention was that the urgent hearing be denied. The said aspect of the matter has also been reported by Live Law New Network on 10.07.2025. The aforesaid two news reports as published by the Live Law News Network on 09.07.2025 and 10.07.2025 are also taken on record.

9. It, thus, appears to us that so far as the writ petition before the Hon'ble Supreme Court is concerned, it is only that mention to list the matter was denied. However, no order appears to have been passed in writing to the effect that "*Let the film be released*". Accordingly, we are not convinced with the prayer made by counsel representing the respondents to defer the hearing of this petition.

10. Before we advert to the competing submissions made by learned counsel representing the respective parties, we may note the statutory scheme of the Act so far as certification of a film for exhibition and regulation thereof are concerned. Section 5A of the Act provides that if after examination of the film the Board considers the film to be suitable for unrestricted public exhibition or for such exhibition with an endorsement of some nature, it shall grant a certificate in respect of the film which may be categorised as, "U" or "UA". Sub Clause of (b) of Section 5(A) provides that if the Board finds that a film is not suitable for unrestricted public exhibition but is suitable for public exhibition restricted to adults or it is suitable for public exhibition restricted to members of any profession or any



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class of persons, a certificate in respect of the film as “A” or as “S” may be granted and accordingly, the film shall be marked as such in the prescribed manner.

11. Section 5B of the Act contains the principles for guidance in certifying the films according to which a film shall not be certified for public exhibition, if in the opinion of the authority competent to grant the certificate i.e. the Board finds that the film or any part of it is not in the interest of – (i) sovereignty and integrity of the India, (ii) the security of the State, (iii) friendly relations with foreign states, (iv) public order, (v) Decency or morality, or (vi) the film involves defamation or contempt of Court or is likely to incite the commission of any offence. Sub-section 2 of 5B empowers the Central Government to issue such directions as may be deemed fit providing the principles to guide the Board to grant certificate under the Act for sanctioning the film for public exhibition. We may at this juncture itself note that in exercise of powers conferred by the Central Government under Section 5B (2) of the Act, certain guidelines have been issued which have been notified in the Official Gazette dated 06.12.1991. Clause (1) of the guidelines contained in the notification of the Central Government dated 06.12.1991, provides for the objectives of film certification and mandates that film certification shall ensure certain aspects. The said guidelines also mandate the Board to ensure certain other aspects in Clause (2) to (5) of the said guidelines.

12. Section 5B of the Act and the notification dated 06.12.1991 are extracted herein below:-



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### **Section 5-B:-**

*“5-B. Principles for guidance in certifying films.—(1) A film shall not be certified for public exhibition if, in the opinion of the authority competent to grant the certificate, the film or any part of it is against the interests of [the sovereignty and integrity of India] the security of the State, friendly relations with foreign States, public order, decency or morality, or involves defamation or contempt of court or is likely to incite the commission of any offence.*

*(2) Subject to the provisions contained in sub-section (1), the Central Government may issue such directions as it may think fit setting out the principles which shall guide the authority competent to grant certificates under this Act in sanctioning films for public exhibition.”*

### **Notification dated 06.12.1991:-**

#### **“MINISTRY OF INFORMATION AND BROADCASTING NOTIFICATION**

*New Delhi, the 6th December, 1991*

*S.O. 836(E). - In exercise of the powers conferred by sub-section (2) of section 5B of the Cinematograph Act, 1952 (37 of 1952) and in supersession of the notification of the Government of India in the Ministry of Information and Broadcasting No. S.O. 9(E), dated the 7th January, 1978, except as respects things done or omitted to be done before such supersession, the Central Government hereby directs that in sanctioning films for public exhibition, the Board of Film Certification shall be guided by the following principles:-*

*1. The objectives of film certification will be to ensure that-*

- (a) the medium of film remains responsible and sensitive to the values and standards society;*
- (b) artistic expression and creative freedom are not unduly curbed;*
- (c) certification is responsive to social change;*
- (d) the medium of film provides clean and healthy entertainment; and*
- (e) as far as possible, the film is of aesthetic value and cinematically of a good standard.*

*2. In pursuance of the above objectives, the Board of Film Certification shall ensure that-*

- (i) anti-social activities such as violence are not glorified or justified;*
- (ii) the modus operandi of criminals, other visuals or words likely to incite the commission of any offence are not depicted;*
- (iii) scenes—*
  - (a) showing involvement of children in violence as victims or as perpetrators or as forced witnesses to violence, or showing children as being subjected to any form of child abuse;*



*(b) showing abuse or ridicule of physically and mentally handicapped persons; and*

*(c) showing cruelty to, or abuse of, animals are not presented needlessly.*

*(iv) pointless or avoidable scenes of violence, cruelty and horror, scenes of violence primarily intended to provide entertainment and such scenes as may have the effect of desensitising or dehumanising people are not shown;*

*(v) scenes which have the effect of justifying or glorifying drinking are not shown;*

*(vi) scenes tending to encourage, justify or glamorise drug addition are not shown;*

*(vii) human sensibilities are not offended by vulgarity, obscenity or depravity;*

*(viii) such dual meaning words as obviously cater to baser instincts are not allowed;*

*(ix) scenes degrading or denigrating women in any manner are not presented;*

*(x) scenes involving sexual violence against women like attempt to rape, rape or any form of molestation, or scenes of a similar nature are avoided, and if any such incident is germane to the theme, they shall be reduced to the minimum and no details are shown;*

*(xi) scenes showing sexual perversions shall be avoided and if such matters are germane to the theme, they shall be reduced to the minimum and no details are shown;*

*(xii) visuals or words contemptuous of racial, religious or other groups are not presented:*

*(xiii) visuals or words which promote communal, obscurantist, anti-scientific and anti-national attitudes are not presented:*

*(xiv) the sovereignty and integrity of India is not called in question;*

*(xv) the security of the State is not jeopardised or endangered;*

*(xvi) friendly relations with foreign States are not strained;*

*(xvii) public order is not endangered,*

*(xviii) visuals or words involving defamation of an individual or a body of individuals, or contempt of court are not presented:*

**EXPLANATION:** *Scenes that tend to create scorn, disgrace or disregard of rules or undermine the dignity of court will come under the term "contempt of court"; and*

*(xiv) National symbols and emblems are not shown except in accordance with the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950 (12 of 1950)*



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3. The Board of Film Certification shall also ensure that the film—

(i) is judged in its entirety from the point of view of its overall impact; and

(ii) is examined in the light of the period depicted in the light of film and the contemporary standards of the country and the people to which the film relates, provided that the film does not deprave the morality of the audience.

4. Films that meet the above-mentioned mentioned criteria but are considered unsuitable for exhibition to non-adults shall be certified for exhibition to adult audiences only.

5. (1) While certifying films for unrestricted public exhibition, the Board shall ensure that the film is suitable for family viewing, that is to say, the film should be such that all the members of the family including children can view it together

(2) If the Board, having regard to the nature, content and theme of the film, is of the opinion that it is necessary to caution the parents guardian to consider as to whether any child below the age of twelve years may be allowed to see such a film, the film shall be certified for unrestricted public exhibition with an endorsement to that effect.

(3) If the Board, having regard to the nature, content and theme of the film, is of the opinion that the exhibition of the film should be restricted to members of any profession or any class of persons, the film shall be certified for public exhibition restricted to the specialised audiences to be specified by the Board in this behalf.

6. The Board shall scrutinise the titles of the films carefully and ensure that they are not provocative, vulgar, offensive or violative of any of the above-mentioned guidelines.

Foot note — Notification No. 5/5/77-F(C) dated 7-1-78 published in the Extraordinary Gazette of India Part II Section 3 sub-section (ii) dated 7-1-78 as S.O. 9(E).

Amended by—

(i) Notification No. 5/5/77-F(C) dated 27-1-79 published as S.O. 618 in the Gazette of India Part II Section 3 sub-section dated 17-2-79.

(ii) Notification No. 805/2/82-F(C) dated 7-5-83 published as S.O. 356(E) in the Gazette of India Extraordinary Part II Section 3 Sub-section (ii) dated 7-5-83.

(iii) Notification No. 803/4/89F(C) dated 11-8-89 published as S.O. 2179 in the Gazette of India Part II Section 3 sub-section (ii) dated 9-9-89.”





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13. So far as the provisions contained in Section 5B of the Act are concerned, they prohibit the Board to grant certification for exhibition of a film in certain conditions which are enumerated therein. As far as the guidelines contained in the notification dated 06.12.1991 are concerned, the same being statutory in nature are binding on the Board and accordingly, Board while considering any prayer for grant of film certification, has to be guided by the said guidelines and in fact, the principles to be followed for consideration of the prayer for grant of film certification are mandatorily to be followed by the Board, for the reason that the guidelines being statutory in nature have binding effect.

14. The considerations, thus, which should weigh with the Board while considering the prayer for grant of film certification are elaborate and are explicitly mentioned in the said notification dated 06.12.1991, which requires the Board to take into consideration a large number of factors before taking the decision to grant such a prayer.

15. The notification mandates the Board to be guided by various considerations including those concerning anti-social activities, involvement of children in violence as victims, abuse or ridicule of physically and mentally handicapped persons, cruelty or abuse of animals, avoidable scenes of violence, cruelty and horror, avoiding scenes which have the effect of glorifying drinking and drug addiction etc, avoiding dual meaning words and scenes degrading or denigrating women in any manner, avoiding scenes involving sexual violence against women, avoiding visuals or words contemptuous of racial, religious or other groups, public order etc. Clause 3 of the guidelines embodied in the notification dated 06.12.1991, also



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mandates the Board to ensure that the film is judged in its entirety from the point of view of its overall impact and is examined in the light of period depicted in the film and the contemporary standards of the country and the people to which the film relates, provided that the film does not deprave the morality of the audience. Certain other aspects relevant for film certification have also been mandated to be taken into account by the Board while deciding a prayer made by any producer of the film seeking certification as per Section 5A read with Section 5B of the Act.

16. Section 5C provides a forum of an appeal i.e. High Court, however, such a remedy of appeal is available to a person applying for certificate in respect of a film, who has certain grievances against any order passed by the Board in refusing to grant a certificate or granting a certificate in a particular category or directing such an applicant to carry out certain modifications in the film. The said provision contained in Section 5C, thus, does not provide a remedy of appeal to a person who is aggrieved by the certification of the film granted by the Board. Section 5E vests with the Central Government power of suspension and revocation of the certificate on certain grounds given therein. Section 5F vests the power of review of orders by the Central Government.

17. Apart from the aforesaid, Section 6 of the Act provides for revisional powers to be exercised by the Central Government. Section 6 as it stands on the Statute Book today, is extracted herein below:-

*“6. Revisional powers of the Central Government.—(1) [\* \* \*]  
(2) [Subject to the provisions of this Act], the Central Government may, by notification in the Official Gazette, direct that—  
(a) a film which has been granted a certificate shall be deemed to be an uncertified film in the whole or any part of India; or*



*(b) a film which has been granted a “U” certificate [or a [“UA” certificate with any UA marker] or a “S” certificate] shall be deemed to be a film in respect of which an “A” certificate has been granted; or  
(c) the exhibition of any film be suspended for such period as may be specified in the direction:*

*Provided that no direction issued under clause (c) shall remain in force for more than two months from the date of the notification.*

*(3) No action shall be taken under clause (a) or clause (b) of sub-section (2) except after giving an opportunity to the person concerned for representing his views in the matter.*

*(4) During the period in which a film remains suspended under clause (c) of sub-section (2), the film shall be deemed to be an uncertified film.]”*

18. Section 6 as it stood before its substitution by way of Act no.12 of 2023 is also extracted herein below:-

*“Omitted by Act 12 of 2023, S. 7(a) (w.e.f. 11-8-2023). Prior to omission it read as:*

*“(1) Notwithstanding anything contained in this Part, the Central Government may, of its own motion, at any stage, call for the record of any proceeding in relation to any film which is pending before, or has been decided by, the Board, and after such inquiry, into the matter as it considers necessary, make such order in relation thereto as it thinks fit, and the Board shall dispose of the matter in conformity with such order:*

*Provided that no such order shall be made prejudicially affecting any person applying for a certificate or to whom a certificate has been granted, as the case may be, except after giving him an opportunity for representing his views in the matter.*

*Provided further that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against public interest to disclose.”*

19. If we compare Section 6 as it stood before its substitution in the year 2023 with the said provision existing as on today, what we find is that both the provisions conferred the Central Government revisional powers empowering the Central Government to pass orders in respect of the orders passed by the Board.

20. Prior to its substitution in the year 2023, Section 6 provided that the Central Government on its own motion and at any stage could, call for



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record of any proceedings pending before or which has been decided by the Board and thereafter, may make such order as may be thought fit by the Central Government. After its substitution in the year 2023, Section 6 as it exists today, empowers the Central Government to issue certain directions including the direction that a film which has been granted a certificate shall be deemed to be uncertified film or a film which has been granted a particular category of certificate shall be deemed to have been certified for some other category or the exhibition of the film may be suspended for such period as may be specified in such direction to be issued by the Central Government. Both the provisions thus, essentially vests the Central Government with certain revisional powers against the orders passed by the Board. Prior to its substitution in the year 2023, such revisional power could be exercised by the Central Government on its own motion, however, as to how and at whose instance the revisional powers of the Central Government can now be exercised in terms of the substituted provision, is not clearly stated in the substituted Section 6.

21. Nonetheless the revisional powers are available as vested in the Central Government under Section 6. In view of the omission of phrase “*may of its own motion*”, in the substituted provision of Section 6, in our opinion such revisional powers can be exercised by the Central Government in both the situations i.e. of its own motion as also on a motion to be moved by a person who is said to be aggrieved by an order passed by the Board. Thus, so far as the statutory remedy as provided under the Act after film certification is concerned, it is now available to a person who applies for film certification and is aggrieved by the order passed by the Board in



certain manner under Section 5A as also to a person who is not the applicant seeking film certification but he is still aggrieved by such certification under Section 6 of the Act in the form of a remedy of revision before the Central Government.

22. In this regard we have a reference to a judgment of a Division Bench of Hon'ble Bombay High Court in the case of ***Hiten Dhirajlal Mehta v. Bhansali Production, 2022 SCC OnLine Bom 372***, paragraph no.28 of which is extracted herein below:-

*“28. Even though the Court may form a view one way or the other with regard to depiction of any particular area in a particular way, or if any material is present or shown in a film which seeks to denigrate a particular community, it would be impermissible for the Court to interfere in the absence of any challenge to the certification of the film for public exhibition granted by the Board. We are inclined to take a view, on the authority cited, that once a certificate is issued by the Board upon securing compliance of its directions for modifications either in the form of excision/deletion/substitution etc., as in the present case, there cannot be any kind of obstruction for exhibition of a film which is certified. Public exhibition can only be restrained by the Central Government if an approach is made under Rule 32 of the Rules read with section 6 of the Act or upon a challenge being mounted to the certificate before a Court exercising jurisdiction under Article 226 of the Constitution and obtaining a stay of the certificate. Once the film is granted certificate by the competent statutory authority, i.e., the Board, the producer or distributor of the film has every right to exhibit the film in a hall unless, of course, the said certificate is modified/nullified by a superior authority/Court. Any move of any body, group, association or individual to assume the position of the certificate granting authority has to be discouraged and nipped in the bud.”*

23. ***Hiten Dhirajlal Mehta (supra)*** was a case where Section 6 of the Act as it stood before its substitution in the year 2023 was considered along with Rule 32 of the Cinematograph (Certification) Rules, 1983(hereinafter referred to as the ‘Rules, 1983’). The Rules, 1983 have now been superseded by the Cinematograph (Certification) Rules, 2024 (hereinafter



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referred to as the ‘Rules, 2024’). However, Hon’ble Bombay High Court in **Hiten Dhirajlal Mehta (supra)** has held that “...there cannot be any kind of obstruction for exhibition of a film which is certified. Public exhibition can only be restrained by the Central Government if an approach is made under Rule 32 of the Rules read with section 6 of the Act or upon a challenge being mounted to the certificate before a Court exercising jurisdiction under Article 226 of the Constitution of India...”. Accordingly, Hon’ble Bombay High Court has held that even under Section 6 before its substitution in the year 2023, could be invoked by a person after certification for exhibition of a film is issued. We may note that Section 6 before its substitution in the year 2023 contained a phrase “*of its own motion*” which phrase does not occur in the substituted provisions of Section 6 as it exists today. Accordingly, our view that a person though not an applicant before the Board seeking certification of a film, if aggrieved by an order of the Board certifying a film, can approach the Central Government, invoking its revisional jurisdiction under substituted Section 6 of the Act, is supported by **Hiten Dhirajlal Mehta (supra)**.

24. We may also note that Section 6 of the Act not only empowers the Central Government in exercise of its revisional jurisdiction to direct a film which has been certified by the Board to be deemed as uncertified in whole or any part of India but also provides for passing an order of suspension as an interim measure which is apparent from a perusal of Section 6(2)(c) of the Act.

25. Having noticed the scheme of the Act qua the statutory remedies available therein, we may now consider the submissions made on behalf of



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the respective parties. The film was certified for exhibition by the Board on 20.06.2025. The trailer/teaser of the said film was released and uploaded by the producer of the film on its channel and also on various social media platforms on 26.06.2025. It appears that the teaser released and uploaded on various channels contained uncertified portions of the film, which led the Board to issue a notice to the producer on 01.07.2025. In the said notice, it was stated that certain excised portions of the film as certified by the Board have been circulated and displayed on the social media platforms and that such dissemination constitutes a clear and direct violation of Rule 27 of the Rule 2024. The notice further states that exhibition or distribution of any such excised content, whether partially or in full, through any media violates both the spirit and letter of Rule 27.

26. Quoting two orders of the Hon'ble Bombay High Court passed in *W.P.(C). 8071/2024*, the notice further states that such action on the part of the producer contravenes certification conditions as endorsed on the certificate and accordingly, the producer was called upon to show cause as to why an appropriate regulatory and legal action should not be initiated.

27. The notice dated 01.07.2025 recites *inter alia* that display of uncertified teaser not only contravened certification conditions of the film but also that it has the potential of adversely affecting the public interest etc., such recitation in the notice is extracted hereunder:-

*“Your action also contravenes the certification conditions as endorsed on the certificate, which mandates that the certified version of the film must not include any scene, dialogue, or sequence that was directed to be removed. The display of these excised scenes undermines the statutory functions of the CBFC and has the potential to adversely affect public order, communal harmony, and the regulatory sanctity of the certification regime.”*



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28. The notice also, in the interim, directed the producer to immediately take down all such excised contents from every platform on which it had been uploaded, exhibited or shared. The notice further states that non-compliance will attract further proceedings, including initiation of criminal or penal action as per applicable law. The said notice forms part of compilation of documents submitted by learned counsel representing respondent no.2, which is taken on record. The said compilation of documents also contains reply given to the said Show Cause Notice (*hereinafter referred to as the 'SCN'*) on behalf of the producer on 02.07.2025.

29. A perusal of the said reply submitted by the producer reveals that it has been admitted that the brief teaser version of the trailer was released without its certification. This admission can be found in the following paragraph of the reply dated 02.07.2025:-

*"The uploading of the teaser, explicitly marked "Uncensored", was undertaken solely to honour binding advertising contracts, attract legitimate audience interest, and safeguard substantial promotional investments tied to the global release."*

30. It is thus apparent that the producer has admitted uploading the teaser which contained even the portions of the film which were ordered to be taken down. The trailer/teaser was certified by the Board for exhibition only on 02.07.2025 with certain cuts from the teaser which was uploaded on 26.06.2025.

31. As observed above, the film was screened for viewing by learned counsel for the parties and their representatives yesterday under the orders of the Court. Based on such screening learned senior counsel representing the





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petitioner has stated that the very intent of the film is a complete vilification of a community and it has a running theme portraying the said community as violent and responsible for causing riots and has been constantly in touch with the terrorists in the neighbouring country. It has been stated in the note submitted by the petitioner that the film in its thematic expression shows persons belonging to a particular community in a negative light. Quoting certain instances and dialogues in the film, it has been stated by learned senior counsel for the petitioner that the film in its entirety carries along a running theme vilifying members of a particular community in almost every scene and thus the film is a worse form of hate speech posing an immediate threat to public order and harmony. His submission, thus, is that the certificate granted by the Board is not only against the statutory principles or guidance in certifying films as contained in Section 5B of the Act, which clearly prohibits certification of a film in case it is likely to incite commission of any offence or it poses threat to public order, but the film is also against the guidelines issued by the Central Government which are embodied in the Notification dated 06.12.1991. He has argued that as per the guidelines contained in the Notification dated 06.12.1991, which are statutory in nature, the Board ought to have considered that the film should not contain visuals or words contemptuous of racial, religious or other groups and such visuals and words should not have been presented. He has also stated that the said guidelines clearly prohibit certification of a film which contains visuals or words which have a tendency to promote communal, obscurantist, anti-scientific and anti-national attitudes and that public order is not endangered. He has laid emphasis on the principle



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contained in the Clause (3) of the Notification dated 06.12.1991 which clearly mandates the Board to ensure that the film is judged in its entirety from the point of view of its overall impact. It has thus been argued that if the film is viewed in its entirety, what is found is that it runs a thematic expression which are contrary to the provisions of Section 5B as also the guidelines contained in the Notification dated 06.12.1991.

32. Mr. Chetan Sharma, learned ASG for respondent no.1 and 2 has argued that once the prayer for film certification was being considered by the Board as many as 55 cuts/modifications/insertions were ordered to be complied with by the producer. He has stated that so far as averments made in the petition are concerned, every single objection raised in the writ petition against the certification of the film stands addressed by such modification ordered by the Board and therefore, no such grievance can be said to be in existence as on today. It has been argued further that the Board which is entrusted with the task of certifying the film for exhibition comprises of experts in the area of art, film direction, film making etc. and as such any decision of the Board though is amenable to writ jurisdiction of the Court, however, the Court while exercising such jurisdiction in such matters has to be cautious and loathe in interfering with the decision of the Board.

33. In support of his submission, the following judgments have been cited by learned ASG:-

1. ***“Mamta Rani v. Union of India & Ors. W.P.(C) 713/2023 (Order dated 21.07.2023).***
2. ***S. Rangarajan v P. Jagjivanram & Ors. 1989 (2) SCC 574***



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3. ***Prakash Jha Productions & Anr v. Union of India (2011) 8SCC 372.***
4. ***Anuradha Bhasin v Union of India & Ors. 2020 (3) SCC 637.***
5. ***Nachiketa Walhekar v CBFC & Anr W.P. (C) 1119/2017 (Order dated 16.11.2017).***
6. ***Viacom 18 Media Pvt. Ltd & Others v. Union of India & Ors, (2018) 1 SCC 761.***
7. ***Ajay Katara v. Union of India & Ors, 2016 SCC OnLine Del 6594.***
8. ***Priya Singh Paul v Madhur Bhandarkar & Ors, 2017 (6) Mh. L.J.***
9. ***Sony Pictures Releasing of India Ltd. & Ors. v. State of Tamil Nadu & Ors., Manu/TN/2203/2006.***
10. ***Phantom Films Pvt. Ltd. & Ors v. CBFC & Ors, Manu/MH/1059/2016 or 2016 SCC OnLine Bom 3862.***
11. ***Sahil Parvez & Ors. v Union of India 2025:DHC:613 (in W.P.(C) 1192/2025).***
12. ***Kingsley International Pictures Corporation v. Regents of the University of the State of New York, 1959 SCC OnLine US SC 130.***

34. It has further been argued by learned ASG that the thematic expression of a work of art is a matter of perception which may differ from person to person and as such, it is difficult to find any judicially manageable standards to judiciously scrutinize such a decision of the Board which



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comprises of experts of the area. Certain other submissions have also been made by learned ASG to counter the arguments of learned senior counsel for the petitioner by submitting that the theme of the film is crime specific and not community specific. His submission is that, in any case, formation of opinion of a theme of a film or for that matter any other art work is a matter of perception and therefore, the same should be left to the experts.

35. Learned counsel representing respondent no.3 and 5 in unison, while adopting the arguments of learned ASG, have argued that the concerns raised in writ petition as on today stands readdressed by the cuts as directed by the Board. It has further been stated by them that the film is slated to be released tomorrow where huge investment has been made by the Distributor and firm exhibitors.

36. So far as learned counsel for respondent no.9 is concerned, she has submitted that in relation to the issue raised in the writ petition, respondent no.9 does not have any concern.

37. Learned senior counsel for the petitioner in the rejoinder has laid emphasis again on Clause 3 of the Notification dated 06.12.1991, which mandates the Board to ensure that the film is judged in its entirety from the point the view of its overall impact and has submitted that it is in this background of the said principle that the theme of the film was to be viewed by the Board before taking the decision to certify the same. He has further cited the judgment of Hon'ble Supreme Court rendered in the case of ***Amish Devgan v. Union of India, (2021) 1 SCC 1*** wherein, a distinction has been drawn between hate speech and free speech. The submission is that if the film is viewed in its entirety, it is an example of hate speech and therefore,



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this distinction needs to be drawn by simultaneously taking into consideration the rights of the producer or the film maker of freedom of expression and free speech.

38. We have considered the respective submissions made by learned counsel for the parties. Admittedly, the petitioner has not taken recourse to the statutory remedy available to him under Section 6 of the Act, which vests adequate and substantial powers with the Central Government to declare a film to be uncertified and it also empowers the Central Government to pass orders providing for certain interim measures such as suspension of film from exhibition. It is not that it is impermissible for this Court to exercise its extraordinary jurisdiction under Article 226 of the Constitution of India even in a case where the petitioner approaching the Court has not exhausted the alternative statutory remedy but having regard to the facts and circumstances of the case and also taking into consideration the entire scheme of the Act, specially the scheme relating to the processes to be gone into by the Board at the time for consideration of the prayer for grant of certificate, we are of the opinion that the petitioner ought to approach the Central Government by invoking Section 6 of the Act.

39. Having observed as above, we may also note that the Central Government under Section 6 has been empowered not only to pass final order but also to provide for certain interim measures such as suspension of a film from exhibition for such period as may be justified.

40. Accordingly, we permit the petitioner to approach the Central Government by invoking Section 6 of the Act by Monday i.e. 14.07.2025, and in case the petitioner approaches the Central Government under Section



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6, he may also make a prayer for grant of interim measures as contemplated in Section 6(2)(c) of the Act. Once the petitioner approaches the Central Government by filing Revision petition under Section 6, the same shall be considered and decided by the Central Government within a period of one week in accordance with law, of course after giving opportunity to the producer as has been contemplated in sub-Section (3) of Section 6 of the Act.

41. The Hon'ble Supreme Court in its decision in ***Kihoto Hollohan v. Zachillhu, 1992 Supp (2) SCC 651***, has observed that the purpose of *interlocutory* order is to preserve in *status quo* rights of the parties so that the proceedings did not become infructuous by any unilateral overt acts by one side or the other during its pendency. Paragraph no. 126 of the said judgment is extracted herein below”

*“126. The purpose of interlocutory orders is to preserve in status quo the rights of the parties, so that, the proceedings do not become infructuous by any unilateral overt acts by one side or the other during its pendency. One of the contentions urged was as to the invalidity of the amendment for non-compliance with the proviso to Article 368(2) of the Constitution. It has now been unanimously held that Paragraph 7 attracted the proviso to Article 368(2). The interlocutory orders in this case were necessarily justified so that, no landslide changes were allowed to occur rendering the proceedings ineffective and infructuous.”*

42. Accordingly, since we are relegating the petitioner to the remedy of revision under Section 6 of the Act, we direct that till the application for interim relief, if made by the petitioner along with the revision petition under Section 6, is decided by the Central Government, the release of the film shall remain stayed.

43. In our discussion above, we have noticed that the SCN dated 01.07.2025 had called upon the producer to show cause as to why



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appropriate action for violation of Rule 27 of the certification guidelines may not be taken, but it also required the producer to show cause as to why criminal or penal action as applicable under law may not be taken. We have also referred above the reply submitted by the producer on 02.07.2025 to the SCN dated 01.07.2025, wherein certain admissions have been made. Learned ASG states that necessary action which may be warranted under the law in this respect shall also be taken by the Board.

44. The writ petitions along with pending applications stand disposed of in the aforesaid terms.

45. Costs made easy.

**DEVENDRA KUMAR UPADHYAYA, CJ**

**ANISH DAYAL, J**

**JULY 10, 2025**  
**MJ**