

Court No. - 2

1. **Case :-** PUBLIC INTEREST LITIGATION (PIL) No. - 728 of 2022

Petitioner :- Kuldeep Tiwari And Another

Respondent :- Union Of India Thru. Secy. Ministry Of Information And Broadcasting And 13 Others

Counsel for Petitioner :- Ranjana Agnihotri, Sudha Sharma

Counsel for Respondent :- A.S.G.I., Ashwani Kumar Singh, C.S.C.

CONNECTED WITH

2. **Case :-** PUBLIC INTEREST LITIGATION (PIL) No. - 586 of 2023

Petitioner :- Naveen Dhawan

Respondent :- Union Of India Thru. Secy. Ministry Information And Broadcasting Central Sectr.New Delhi And Others

Counsel for Petitioner :- Prince Lenin

Counsel for Respondent :- A.S.G.I., C.S.C.

Hon'ble Rajesh Singh Chauhan,J.

Hon'ble Shree Prakash Singh,J.

1. Heard Ms. Ranjana Agnihotri, learned counsel for the petitioners in Public Interest Litigation (PIL) No.728 of 2022 and Mr. Prince Lenin, learned counsel for the petitioner in Public Interest Litigation (PIL) No.586 of 2023, Sri S.B. Pandey, learned Senior Advocate and Deputy Solicitor General of India assisted by Sri Ashwani Kumar Singh, learned counsel, who has appeared for Union of India through its Secretary, Ministry of Information and Broadcasting, Central Secretariat, New Delhi i.e. the opposite party No.1 and for Central Board of Film Certification i.e. the opposite party No.3, Sri Vinod Kumar Shahi, learned Additional Advocate General assisted by Sri Shailendra Kumar Singh, learned Chief Standing Counsel along with Sri Vivek Kumar Shukla, learned Additional Chief Standing Counsel for the State-opposite party No.2, in both the writ petitions.

2. Sri Mahesh Kumar, Regional Officer, Central Board of Film Certification is present in person before the Court.

3. Sri Prince Lenin, learned counsel for the petitioner has filed supplementary affidavit in the writ petition in re: Naveen Dhawan (supra), the same is taken on record.

4. Let notice be issued to opposite party No.4 in Public Interest Litigation (PIL) No.586 of 2023; Naveen Dhawan vs. Union of India & others, returnable at an early date, for which, necessary steps be taken within a week. Office to proceeding accordingly.

5. Let notices be issued to opposite party No.4, 5 & 14 in Public Interest Litigation (PIL) No.728 of 2022; Kuldeep Tiwari & another vs. Union of India & others, returnable at an early date, for which, necessary steps be taken within a week. Office to proceeding accordingly.

6. Notably, both the writ petitions (PILs) have been filed seeking relief to direct the Competent opposite parties to remove the objectionable dialogues and scenes from the Film 'Adipurush', which is depicting religious Gods and other icons and characters in disgusting and vulgar manner hurting the sentiments of public at large who worship those religious Gods / Icons. Therefore, with the request of learned counsel for the parties, both the aforesaid Public Interest Litigation (PILs) are being clubbed and the order passed by the Court would be applicable in both the writ petitions.

7. At the very outset, we have noticed that the issue in hand is a sensitive issue inasmuch as it not only touches the very sentiments and emotions of public at large who worship of Lord Rama, Devi Sita and Lord Hanuman etc. but also hurts the emotions of those persons, as those religious Icons/Gods have been shown in a film 'Adipurush' in a shameful and disgusting manner as if they are fictional persons or as if they are comic characters. Those Icons/ Lords have been shown in a film by the

film makers including the dialogue writers without taking care of holiness and sanctity of those characters. Not only the dialogues of the film are so substandard having cheap language but so many scenes of the film depicting Devi Sita are disgraceful to her very character and some scenes depicting wife of Vibhishana are prima-facie obscene also which are absolutely unwarranted and uncalled for. Even depiction of Ravan, his Lanka etc. is so ridiculous and cheap. Those facts have been narrated in both the PILs properly enclosing the relevant material. Therefore, to us, those PILs are genuine filed within four corners of law as per rules of this Court and the dictums of Apex Court.

8. Further, it is trite law that in the name of freedom of speech and expression no one can be permitted to do anything which is against the decency or morality or against the public order etc. To us, this film, prima-facie, does not qualify the test as prescribed under Article 19 of the Constitution of India.

9. In view of the above, we are pained noticing the fact that while making such film, the film makers and the dialogue writer have not taken care of feelings and emotions of public at large depicting the characters and dialogues in shameful and vulgar manner knowingly well that those Icons/ Lords e.g. Lord Rama, Devi Sita and Lord Hanuman are worshiped by the large number of persons of the society and the Censor Board has not discharged its legal duty while issuing certificate to release the film without following the guidelines issued under Section 5-B of the Act, 1951. Further, the Competent Authority of the Ministry of Information and Broadcasting, Government of India has yet not taken suitable action immediately after release of the film despite having proper mechanism to take appropriate steps to suspend or to revoke the certificate or to stop the exhibition of the film after noticing the huge unrest of public at large.

10. It is not fair to ignore the voice of those people who despite being offended seriously after the release of this film but have been maintaining the public order and are following the law and order. Notably, this is not a single film of this type but as per contentions of learned counsel for the petitioners some more films have been produced earlier showing the Hindu Gods /Godess /Icons in a shameful and disguising manner. If such type of illegal and immoral acts of the film makers are not checked at the earliest some more film may likely to be produced touching sensitive aspects of other religions besides Hindu religion. Hence, some stringent and deterrent action by the Competent Authority of the Central Government would be required in the present case in the interest of public at large of the country.

11. It has been aptly said that ‘there is *no crueller tyranny than that which is perpetrated under the shield of law and in the name of justice*’. Martin Luther King Jr. has rightly said that ‘*injustice anywhere is a threat to justice everywhere*’. Further, the expression ‘*justice*’ must mean that which is right and fitting with regard to ‘*public interest*’.

12. This Court on 27.06.2023 passed the following order, which reads as under:-

“(Order on Impleadment Application No. I.A./04/2023)”

1. Heard Ms Ranjana Agnihotri, learned counsel for the petitioners, Sri S.B. Pandey, learned Senior Advocate and Deputy Solicitor General of India, assisted by Sri Ashwani Kumar Singh for opposite party no. 1 and 3, Sri Vinod Kumar Shahi, learned Additional Advocate General of U.P. assisted by Sri Shailendra Kumar Singh, learned Chief Standing Counsel for the State and Sri Vivek Shukla, learned counsel for opposite party no. 2.

2. By means of this application, the learned counsel for the petitioners has prayed that the dialogue writer of the film ‘Adipurush’ i.e. Sri Manoj Muntashir @ Manoj Shukla be

impleaded in the array of opposite party as opposite party no. 15.

3. The reasons shown in the application appears to be appropriate, therefore, the impleadment application is allowed.

4. Let Sri Manoj Muntashir @ Manoj Shukla be impleaded as opposite party no. 15 with his correct address during the course of the day.

5. Let notices be issued to opposite party no. 15.

6. Steps to be taken within seven days.

7. Office is directed to proceed accordingly.

(Order on Writ Petition)

1. Ms. Ranjana Agnihotri, learned counsel for the petitioners has filed the amended copy of the writ petition and the same is taken on record.

2. In the aforesaid amended copy of the writ petition, she has drawn attention of this Court towards annexure no. 1 whereby coloured photographs of some part of the film in question, i.e, 'Adipurush' have been annexed. She has shown some objectionable portion from the aforesaid photographs. She has further drawn attention of this Court towards the Guidelines for Certification of Films for Public Exhibition issued under Sub-section 2 of Section 5-B of the Cinematograph Act, 1952 (hereinafter referred to as "the Act, 1952"), to show that not only some dialogues of the film but the picturisation of Lord Rama, Devi Sita, Lord Hanuman, Ravan and wife of Vibhishana etc have not been depicted in terms of the guidelines.

3. Para 2 (viii), (ix) & (xii) of the Guidelines framed under the Act, 1952 reads as under:-

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

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

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

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

4. Therefore, Ms. Rajana Agnihotri has requested that the aforesaid movie may immediately be banned inasmuch as the aforesaid movie may not only affecting adversely the sentiments of the people at large, who worship Lord Rama, Devi Sita, Lord Hanuman etc., but the manner in which the character of Ramayana has been depicted would create serious disharmony in the society also. Ms. Rajana Agnihotri has further stated that she failed to understand from where the content of the film has been borrowed as nothing in that manner has been narrated in Valmiki Ramayana or Tulsikrit Ramcharit Manas.

5. Sri S.B. Pandey, learned Deputy Solicitor General of India has submitted that if, scenes of the film which have been filed with the petition and dialogues thereof, which have been reproduced in the writ petition are from the film, he can verify this fact after seeking the instructions from the competent authority. He has also referred Section 6 of the Cinematograph act 1952, which provides that in such circumstances, the revisional power vests with the Central Government. He has also stated that the Board of Films certification may not revisit on the certificate already issued to the film. Sri S.B. Pandey has further submitted that he has been told that before starting of the film, the disclaimer has been shown to the effect that the film is not the Ramayana. On that, Sri Pandey has been confronted to the effect that when the film maker has shown Lord Rama, Devi Sita, Lord Laxman, Lord Hanuman, Ravan, Lanka etc., then as to how the disclaimer of the film would convince the people at large that the story is not from Ramayana. Sri Pandey has submitted that he will have to seek instructions on that point.

6. Having regard to the fact that Sri S.B. Pandey has not received complete instructions from the Union of India, more particularly, from Ministry of Information and Broadcasting, opposite party no. 1 and Board of Film Certification, opposite party no. 3, he is granted 24 hours' time to seek complete instructions. While producing complete instructions, he shall also apprise the Court as to whether opposite party no.1 is considering to take appropriate steps in the interest of public at large by invoking its revisional power under Section 6 of the Act, 1952.

7. List/put up this case tomorrow i.e. 28.06.2023 at 02:15 PM sharp along with WPIL No. 586 of 2023, Naveen Dhawan vs Union of India and another.”

13. Today, Sri S.B. Pandey, learned Deputy Solicitor General of India has submitted on the basis of instructions that there was an Expert Committee in the Board of Film Certification which has given the certificate to release the film in question. He has further submitted that all due care and precautions had been taken before issuing the said certificate.

14. However, on being confronted on the point that as to how the Censor Board has not followed the guidelines which have been issued under the Act, 1952 which clearly provides that the Censor Board shall ensure that the scenes degrading or denigrating women in any manner are not presented and visuals or words contemptuous of racial, religious or other groups are not presented, Sri Pandey has fairly stated that after perusing the coloured photographs so enclosed with the writ petitions and the dialogues of the film so reproduced in the writ petition may require revisit by the Competent Authority in the interest of public at large.

15. Sri Prince Lenin and Ms. Ranjana Agnihotri, learned counsel for the petitioners have submitted that the guidelines for certification of films for public exhibition have been issued under Section 5-B of the Act, 1952. They have further submitted that so as to meet out the unwarranted and uncalled for situation, which may likely to be emerged, there are certain provisions under the Act, 1952 and under the Cinematograph (Certification) Rules, 1983 (here-in-after referred to as the “Rules, 1983”) which have been framed by the Central Government while exercising power conferred by Section 8 of the Act, 1952. The relevant provisions of law would be Section 5-E and Section 6 of the Act, 1952 as well as Rule 33 of the Rules, 1983.

16. Sri S.B. Pandey, learned Deputy Solicitor General of India has also not disputed those provisions of law by submitting that since those legal provisions have been indicated under the Act, 1952 and the Rules 1983, therefore if the Court passes any order in conformity with those provisions of law, he has nothing to say. For convenience of brevity, Section 5-E, Section 6 of the Act, 1952 and relevant portion of the Rule 33 of the Rules, 1983 are being reproduced here-in-below.

“5-E. Suspension and revocation of certificate- (1)
Notwithstanding anything contained in sub section (2) of Section 6, the Central Government may, by notification in the Official Gazette, suspend a certificate granted under this Part, for such period as it thinks fit or may revoke such certificate if it is satisfied that-

(i) the film in respect of which the certificate was granted, was being exhibited in a form other than the one in which it was certified, or

(ii) The film or any part thereof it being exhibited in contravention of the provisions of this part rules made there under.

(2) Where a notification under sub-section (1) has been published, the Central Government may require the applicant for certificate or any other person to whom the rights in the film have passed, or both, to deliver up the certificate and all duplicate certificates, if any, granted in respect of the film to the Board or to any person or authority specified in the said notification.

(3) No action under this section shall be taken except after giving an opportunity to the person concerned for representing his views in the matter.

(4) During the period in which a certificate remains suspended under this section, the film shall be deemed to be an uncertified film.

6. Revisional powers of the Central Government - (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, or, as the case may be, decided by the Tribunal (but not including any

proceeding in respect of any matter which is pending before the Tribunal) 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.

(2) Without prejudice to the powers conferred on it under sub section (1), 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 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 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.

33. Alteration of film after issue of certificate- *(1) When a film is altered by excision, addition, colouring or otherwise after it has been certified under these rules, it shall not be exhibited unless the portion or portions excised, added, coloured or otherwise altered, have been reported to the*

Board in Form III in the Second Schedule and the Board has endorsed the particulars of the alteration or alterations on the certificate.”

17. Section 5-E authorises the Central Government to suspend a certificate granted to the film in question for a particular period as it thinks fit or may revoke such certificate if the film is being exhibited in contradiction of the provisions of the Act and the Rules thereof. Section 6 provides revisional power to the Central Government which may call for records etc. relating to the grievance, if any and after being satisfied regarding said grievance may pass appropriate order.

18. Further, Rule 33 of the Rules, 1983 specifically provides that when a film is altered by excision, addition, colouring or otherwise after it has been certified under these rules, it shall not be exhibited unless the portion or portions excised, added, coloured or otherwise altered, have been reported to the Board.

19. As per learned counsel for the opposite parties, some dialogues of the film have been altered after release of the film.

20. On being further confronted as to whether the compliance of Rule 33 has been done, Sri Pandey has stated that he is not sure about the said compliance but the compliance of rule 33 must have been done.

21. Having heard learned counsel for the parties and having perused the material available on record, before issuing any interim order or any coercive order against the opposite parties including the film maker or producer or dialogues writer, we find it appropriate that one opportunity should be given to the Competent Authority i.e. the opposite party No.1 to revisit on the issue/ grievance of the public invoking its power under Section 6 of the Act, 1952 and if it is found that the grievance of the public at large as narrated in the PILs is genuine and the Censor Board has

not followed the specific guidelines while issuing certificate to the film, appropriate order may be passed under Section 5-E of the Act, 1952. While revisiting the issue, the opposite party No.1 shall constitute a committee of an experts not less than 5 in numbers, two of them would be the persons who are well versed with the Valmiki Ramayana, which is said to be a main source of this film and Tulsikriti Ramcharit Manas and other religious epics etc. so that it could be seen properly as to whether the depiction of story of the film of Lord Rama, Devi Sita, Lord Hanuman and Ravan etc. have been depicted in conformity with the Valmiki Ramayana etc. It would also be seen as to whether the picturization of Devi Sita and wife of Vibhishana are in conformity with the guidelines which clearly mandates that the Censor Board shall ensure that scenes degrading or denigrating women character in any manner are not presented inasmuch as the coloured photographs so enclosed with the writ petitions relating to Devi Sita and wife of Vibhishana are prima facie degrading the sanctity of those characters. Some scenes relating to the wife of Vibhishana in the film are appearing as obscene.

22. Let the aforesaid committee be constituted within a week from the knowledge of this order. The committee shall do the needful in terms of the directions issued by this Court here-in-above within further period of fifteen days. The report of the committee shall be filed before the Court along with the personal affidavit of the Secretary, Ministry of Information and Broadcasting, the opposite party No.1, by the next date of listing. The Chairman, Board of Film Certification, opposite party No.3, shall also file his personal affidavit apprising the Court as to whether the guidelines for certification of films for public exhibition have been followed in its letter and spirit while issuing certificate to the film 'Adipurush'. In the personal affidavit, all the details and the documents would be brought into notice of the Court to convince that the guidelines have been followed in its letter and spirit.

23. If the personal affidavits of the authorities, as directed above, are not filed by the next date of listing, any Class-I Officer not below the rank of Deputy Secretary, Ministry of Broadcasting, New Delhi as well as any responsible officer of the Board of Film Certification shall appear in person along with the records.

24. On the next date, the Director of the film Sri Om Raut (opposite party No.4), Sri Bhushan Kumar (opposite party No.5) and Sri Manoj Muntshir @ Manoj Shukla (opposite party No.15) i.e. the dialogues writer of the film shall also appear in person along with their personal affidavits explaining their bonafide.

25. List both the aforesaid cases on **27.07.2023**.

26. Learned counsel for the petitioners as well as Sri S.B. Pandey, learned Deputy Solicitor General of India shall intimate this order to the opposite party Nos.1 and 3 within three days for its compliance.

[Shree Prakash Singh,J.] [Rajesh Singh Chauhan,J.]

Order Date :- 28.6.2023

Suresh/Anurag