
THE REEL VS THE RULE: TO WHAT EXTENT IS CENSORSHIP IN INDIAN CINEMA JUSTIFIED?

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ABSTRACT

Cinema acts as a powerful and controlling phenomenon in the vast dynamics of the Indian society. Censorship of Indian cinema often tends to oscillate between the provision of constitutional rights and the State's duty to safeguard public morality, order, and decency. Article 19(1)(a) of the Indian Constitution guarantees freedom of speech and expression, but Article 19(2) of the same empowers the State to impose "reasonable restrictions" as and when it deems fit.

This research paper critically analyses landmark Indian judicial decisions on film censorship, including *K.A. Abbas v Union of India* (1970), *S. Rangarajan v P. Jagjivan Ram* (1989), *Mahesh Bhatt v Union of India* (2009), *Qurban Ali v CBFC* (2023), *Mohammed Sami Ullah Qureshi v Government of Telangana* (2022), and *Manohar Lal Sharma v Sanjay Leela Bhansali* (2017). This research paper provides a substantial amount of factual information, analysis of the relevant statutes and judicial reasoning as well as critical evaluation of each case discussing whether censorship was justified in that situation or not. This research comes to conclude that while certain instances of imposition of censorship were justifiable under Article 19(2) and the Cinematograph Act, 1952, the predominant trend seen in censorship of Indian Cinema is that there is suppression of democratic freedom instead of the addressal of legitimate societal concerns.

This paper charts the development of censorship in Indian cinema spanning from the 1970s to the present times. It analyses statutory frameworks and describes the practical interactions between Articles 19(1)(a) and 19(2). It assesses the necessity and proportionality of restrictions by means of a case-by-case analysis. Beyond doctrinal analysis, this research evaluates the societal role of films in influencing representation, public debate, and democratic accountability. This research investigates the impact of certification procedures on underrepresented and marginalized voices; and monitors new issues brought about by regional films, streaming services, and international distribution of Indian films. This research argues the case for a change, from content-control to context-sensitive regulation, that prioritizes limited, moralistic editing, age-ratings, and transparency as a response to

observable threats to social order.

Keywords: Indian Cinema, Film Censorship, Freedom of Speech, Central Board of Film Certification (CBFC), Judicial Review, Pre-censorship, Artistic Expression.

INTRODUCTION

Cinema has always been deeply embedded into the cultural tapestry of India¹ and has played a significant role in shaping the society by acting as an agent of social control. It undeniably has a strong influence over the ideology and perception of the masses due to its popularity. Hence, at present, cinema not only remains to be merely a source of entertainment for people but a crucial social agent. At one hand the production of films can be regarded as a form of expression put forward by creative individuals which are financially supported by production houses safeguarded under the freedom of speech². However, on the other hand, due to the astonishing popularity and influence of cinema over social phenomenon in India, the government has always taken a keen interest in regulating it.

As a key component of democracy, freedom of speech and expression is recognized by the Indian Constitution, which enshrines it under Article 19(1)(a). However, Article 19(2)³ permits the State to impose reasonable limitations in some areas, including matters related to national security, public order, morality, decency, defamation, contempt of court, and incitement to a crime. The Central Board of Film Certification (CBFC), which is operationalized under the Cinematograph Act of 1952⁴, has the authority to certify motion pictures for public release. When a movie is regarded to be against morals, decency, or public order, the CBFC may demand changes or refuse to certify it under Sections 5B and 5C. The conflict stems from the fact that these expansive criteria frequently allow the CBFC to exert undue control, occasionally verging on the repression of dissent or divisive viewpoints.

This research attempts to highlight the viewpoint that although some instances of censorship in Indian cinema⁵ may have been necessary to prevent substantial threats to public order and decency, censorship has also been often misused in order to suppress cinematic voice, reflecting

¹ . Rangarajan v P. Jagjivan Ram (1989) 2 SCC 574

² Constitution of India, art 19(1)(a).

³ Constitution of India, art 19(2).

⁴ Cinematograph Act 1952, ss 5A–5C.

⁵ Manohar Lal Sharma v Sanjay Leela Bhansali (2017)

state paternalism and political vendetta.

The concept of reasonableness is at the core of the constitutional compromise: restrictions must be appropriate for a justifiable purpose, required in a way that respects people's rights, weighed against the value of expression. The lens of proportionality⁶ has been utilized by Indian courts more and more to express this approach, mandating that the State should use the least restrictive measures possible to adequately address a specific threat to public order or other such issues with respect to Article 19(2). Therefore, before considering the restrictions to be justified, this study looks at what the courts had asked for in the form of evidence, tailoring, and safeguards before allowing the censorship to take place, in addition to what the CBFC or the other regulatory bodies had demanded in those cases.

UNDERSTANDING THE CONCEPT OF CENSORSHIP

Censorship can be defined as the action of preventing part or the whole of a book, film, work of art, document, or other kind of communication from being seen or made available to the public, because it is considered to be offensive or harmful, or because it contains information that someone wishes to keep secret, often for political reasons⁷

There are two primary ingredients in film censorship in India which are prior restrictions (pre-certification edits, denials) and subsequent penalties (criminal prosecutions for contempt, hate speech, or obscenity). There are three major traditional defences of free speech⁸—i) the pursuit of truth (Millian marketplace), (ii) democratic self-government (Meiklejohnian civic discourse), and (iii) individual autonomy and dignity. These are the philosophical moot points in this regard. These arguments are strengthened in movies because motion pictures democratize knowledge and cultural engagement by reaching viewers who otherwise might not have been able to read legal treatises. Therefore, focused remedies like age wise categorization⁹, content descriptors, trigger warnings, and, where absolutely necessary, minor scene-specific adjustments are preferred over total banning of films in a liberal constitutional system. However, if one had to compare and contrast the legalities of film censorship in India to the same in other countries one could note that the United Kingdom utilizes regulatory

⁶ S. Rangarajan v P. Jagjivan Ram (1989) 2 SCC 574.

⁷ Cambridge Dictionary, "Censorship" (*English meaning - Cambridge Dictionary*)
<<https://dictionary.cambridge.org/dictionary/english/censorship>>

⁸ Mill J.S., 'On Liberty' (1859); Meiklejohn A., *Free Speech and Its Relation to Self-Government* (1948).

⁹ Cinematograph Act 1952, ss 5B–5C.

norms¹⁰ in this regard but reviews interference according to proportionality, whereas the United States of America's First Amendment approach¹¹ views prior restraint as presumptively unconstitutional. Although India's hybrid approach acknowledges the persuasive power of films, it must guarantee that censorship focuses on immediate injury rather than discomfort, shock, or political inconvenience, in order to be constitutionally acceptable.

LEGAL FRAMEWORK OF FILM CENSORSHIP IN INDIA

The core instruments are the Constitution of India and the Cinematograph Act 1952¹². Article 19(1)(a) guarantees freedom of speech and expression; Article 19(2) sets out permissible grounds for restrictions. Certification and appeals are governed by Cinematograph Act Sections 5A–5C. The CBFC is directed under the Certification Guidelines¹³ (1983 Rules and subsequent revisions) to strike a balance between morality, decency, and public order and creative freedom. This balance is enforced by judicial review, which rejects speculative or overbroad restrictions while demanding accuracy and relevant proof. Reform debates question how certification differs from censorship. In order to avoid de facto restrictions, best practices support publishable guidelines, reasoned orders, institutional independence, and appellate timelines. Transparency allows review and ensures accountability.

CASE LAWS /JUDICIAL DECISIONS- A CASE-BY-CASE ANALYSIS

1. K.A. Abbas v Union of India (1970)

K.A. Abbas was a well-known journalist and filmmaker who had created a documentary titled *A tale of four cities* and had submitted it for certification. The subject of the film revolved around the polar opposite life styles of wealthy individuals from the elite societies and the lifestyle of people from the slum areas. The film depicted central themes like poverty, prostitution, inequality within the society etc. The CBFC invoked sections Sections 5B and 5C of the Cinematograph Act, 1952¹⁴, stating that certain scenes present in the documentary film violated public decency and morality and required those scenes to be removed from the film altogether.

¹⁰ UK Cinematograph Act 1985

¹¹ US Constitution, First Amendment.

¹² Constitution of India, arts 19(1)(a), 19(2); Cinematograph Act 1952.

¹³ Cinematograph (Certification) Rules 1983.

¹⁴ Cinematograph Act 1952, ss 5B–5C.

Abbas challenged the CBFC's decision terming it as pre-censorship. He sought remedy under Article 19(1)(a) of the Indian Constitution¹⁵, however, the Supreme court supported the decision of CBFC and said that films have a unique ability to shape the perception of the masses and hence they require stricter censorship compared to other art forms. Justice Hidayatullah stated in his observation¹⁶ that although censorship should be justifiable and legitimate in nature, films must be censored to prevent threats to public order and moral corruption of the viewers.

The film tried to accurately depict the factual conditions of the people rather than propagating distress or inciting violence, but the act of censorship by the CBFC and support from the Supreme Court showed that the government did not consider the audiences to be mature and responsible enough to be exposed to harsh social realities. This judgement set a precedent for pre-censorship in India.

2. S. Rangarajan v P. Jagjivan Ram (1989)

Ore Oru Gramathile was a Tamil film directed by K Jyothi Pandian and produced by S Rangarajan, released in 1987, that criticized the caste-oriented reservation policies of the government. It was opposed by local political groups fearing the outbreak of social unrest. The Madras High Court took action¹⁷ in the matter by revoking the certification provided to the film and banning it altogether. S. Rangarajan challenged the decision of the Madras High Court by appealing to the Supreme Court stating that the ban on his film violated Article 19(1)(a) of the Indian Constitution.

The Supreme court lifted the ban of the film stating that the anticipation of public unrest cannot be deemed as justifiable grounds for restraining a filmmaker's freedom of expression. Justice K. Jagannatha Shetty made a statement¹⁸ saying that freedom of expression cannot be curbed due to the intolerant nature of a particular community. The Supreme Court stated that the duty of the State is to ensure that law and order is enforced at all times and not suppress the voice of people which it considers to be dissenting, hence censorship shall be imposed strictly in accordance to Article 19(2) of the Indian Constitution.

¹⁵ Constitution of India, art 19(1)(a).

¹⁶ K.A. Abbas v Union of India (1970) 2 SCC 780.

¹⁷ S. Rangarajan v P. Jagjivan Ram (1989) 2 SCC 574

¹⁸ Constitution of India, arts 19(1)(a) & 19(2).

The Supreme Court opposed the act of censorship in this case and stated mere presumption of public sentiments being hurt or mere anticipation of disruption of social order is no excuse for enforcing censorship and curtailing free speech.

3. Mahesh Bhatt v Union of India (2009)

Renowned Indian film director, Mahesh Bhatt, had challenged the provisions of Cigarettes and Other Tobacco Products Act, 2003 and its 2005 Rules. The legislation¹⁹ had prohibited the advertisement of tobacco products and the depiction of consumption of the same in films. Mahesh Bhatt and the other petitioners²⁰ had put forward an argument stating that these legal provisions curbed the right to free speech under Article 19(1)(a) of the Indian Constitution, as the visual portrayal of smoking maybe crucial to uphold the element of realism with respect to the content of the film. The government however attempted to justify its restrictions stating that these laws were enforced taking into account the aspect of public health and Article 21 of the Indian constitution and hence the right to free speech was reasonably restricted with respect to Article 19 (2) of the Indian Constitution.

The Delhi High court had taken a twofold approach in this matter. In 2008 the court had stated that the restrictions imposed on the advertisement and propagation of tobacco products was justified in nature and commercial speech was distinguished from cinematic voice stating that it required more stringent regulation²¹. The argument made by the court here is plausible, as speech, driven largely by commercial interests, has historically been viewed as less essential to democratic debate, and limitations on tobacco advertising can be justified when weighed against the right to life and public health. In 2009 however, the Court had struck down these legal provisions which intended to deem illegal the depiction of tobacco consumption in films and stated that these provisions were more than merely regulatory in nature and tended to perpetrate outright censorship of films. In this scenario the court sensitised the issue of censorship and clearly distinguished between what could be considered as persuasion of audience to consume tobacco products and what could be considered as the depiction of realism in cinema.

¹⁹ Cigarettes and Other Tobacco Products Act 2003, ss 5–6

²⁰ Mahesh Bhatt v Union of India (2009) Delhi HC W.P. (C) 10207/2008

²¹ ‘Smoking Scenes in Films Get Centre Nod’ *The Times of India* (5 September 2012)

<<https://timesofindia.indiatimes.com/india/smoking-scenes-in-films-get-centre-nod/articleshow/16258451.cms>>

The court did not impose an absolute ban on the depiction of consumption of such products in films by acknowledging the requirement of the element of realism in films²². On one hand the court emphasised on the fact that freedom of speech could not go unchecked but on the other it also harped on the fact that public health concerns could not overpower cinematic discourse. The Court amalgamated censorship with the principle of proportionality and stated that the right to free speech should be upheld even during the anticipation of public health concerns

4. Manohar Lal Sharma v Sanjay Leela Bhansali (2017)

This case is concerned with the film *Padmavat* (initially titled “Padmavati”) directed by Sanjay Leela Bhansali and produced by Bhansali Productions and Viacom18 Motion Pictures. The case involved Mr. Manohar Lal Sharma filing a petition where he sought support from the Supreme Court to prevent the release of the film titled ‘Padmavati’. He argued that the film was intended to harm public sentiments with respect to religion and also instigate violent protests from the Rajput communities. He also argued that certain historical events would be inaccurately displayed in the film with the intention of mocking historical figures like “Ratna Simha” and “Rani Padmini” who were much regarded and respected in the Rajput communities. Thus, he invoked Sections 5B and 5C of the Cinematograph Act and moral standards under Article 19(2) of the Indian Constitution²³.

Sanjay Leela Bhansali and his team argued that the film was inspired by the poem *Padmavat* by Malik Muhammad Jayasi. They explained that it was a creative and fictional retelling of real events from the Khilji Dynasty’s invasion of Chittor. They also added disclaimers at the start of the film to make this clear. They further stated that it would not only be unjust but also unconstitutional to censor this film based on the mere anticipation of public unrest and violence. When the case was brought to the Supreme Court it referred to the case of *S. Rangarajan v P. Jagjivan Ram (1989)*²⁴ as a precedent (which has been previously discussed in this research paper) and stated that the mere assumption of the occurrence of public unrest cannot be treated as justifiable grounds for pre-censorship.

Moreover, the Supreme Court stated that the enforcement of law-and-order falls under the purview of the duty of the state which it must ensure by taking necessary preventive measures

²² archive F our online, ‘SC Issues Notice to Mahesh Bhatt’ (*The New Indian Express*, 15 May 2012) <<https://www.newindianexpress.com/nation/2009/Apr/03/sc-issues-notice-to-mahesh-bhatt-38027.html>>

²³ Cinematograph Act 1952, ss 5B–5C; Constitution of India, art 19(2).

²⁴ *S. Rangarajan v P. Jagjivan Ram* (1989) 2 SCC 574.

instead of suppressing the artistic voice of the filmmaker. The Supreme Court also stated that freedom of expression also includes creative liberty especially with regard to historical legends or fictitious narratives²⁵.

The CBFC could have demanded major edits due to fear of political/communal unrest. Hence, if pre-censorship was imposed on the film, then in this situation it would have been highly unjustified. However, the Supreme Court gave more weightage to the upholding of law in this case²⁶ and stated that enforcing the right to freedom of expression was more important than paying heed to threats of disruption of social order from certain social groups/institutions. It stated that such reasons cannot call for the pre-censorship of a film or altogether prohibiting the release of a film.

5. Mohammed Sami Ullah Qureshi v Government of Telangana (2022)

This case revolved around the release of a film in the State of Telangana named *The Kashmir Files* directed by Vivek Ranjan Agnihotri and produced by Zee Studios. The film revolved around the barbaric violence and mass genocide inflicted upon the Kashmiri Pandits and their forceful exodus from Kashmir in the early 1990s. The State Government of Telangana claimed that the presence of certain scenes in the film could instigate communal violence²⁷, threaten social harmony, or undermine the very stability of the political system of the State. The State Government had cited legal provisions under the Cinematograph Act 1952 and invoked Article 19(2) of the Indian Constitution²⁸ to demand the removal of certain scenes from the film, which it considered to be politically inflammatory in nature, and provide legal validity to its restrictions. Mohammed Sami Ullah Qureshi challenged the State's decision to remove certain scenes from the film.

The Telangana High Court reviewed the film scene by scene to separate instigative visuals from factual scenes. The court proclaimed its decision where it ordered for the removal of multiple

²⁵ 'Supreme Court Strikes down Padmaavat Ban Imposed by 4 States, Film to Release across India' (*Hindustan Times*, 18 January 2018) <<https://www.hindustantimes.com/bollywood/padmaavat-to-release-across-india-sc-lifts-ban-imposed-by-4-states/story-7oPxJVj1X3XKJfHJUXJriK.html>>

²⁶ 'SC Lifts Bans, Clears Release of Padmaavat' *The Times of India* (19 January 2018) <<https://timesofindia.indiatimes.com/india/sc-lifts-bans-clears-release-of-padmaavat/articleshow/62561840.cms>>

²⁷ 'Court Stays Release of Vivek Agnihotri's The Kashmir Files' (*India Today*, 10 March 2022) <<https://www.indiatoday.in/movies/bollywood/story/court-stays-release-of-vivek-agnihotri-s-the-kashmir-files-1923950-2022-03-10>>

²⁸ Cinematograph Act 1952, ss 5B–5C; Constitution of India, art 19(2).

scenes from the film which it considered to be overtly graphic, violent or sensitive in nature and could potentially threaten the social harmony of the State. However, a complete ban was not imposed over the film where the court emphasized on the fact that censorship of films should follow the ‘principle of proportionality’ and should acknowledge both the content and context of the film before imposing restrictions.

The government demanded multiple cuts including in factual scenes²⁹, therefore exceeding the principle of regulation. The Government’s decision in this case to conduct a scene-by-scene review highlights the fact that censorship is a nuanced process which requires an in-depth scrutinizing process of a film and not imposing arbitrary restrictions according to convenience or whims. However, the fact that the Government demanded the removal of multiple scenes from the film which were factual in nature and pertinent to the content of the film, even after a scene-by-scene review, was unjustified.

6. Adv. Anoop V.R. v Union of India (2023) and Qurban Ali v Central Board of Film Certification (2023)

Both the abovementioned cases are concerned with the film titled *The Kerala Story* directed by Sudipto Sen and produced by Vipul Shah. The subject of the film revolved around the theoretical and speculative practice of indoctrination of Islamic principles into thousands of young women from Kerala and manipulating them to convert to Islam, ultimately leading to their enlistment into terrorist organizations like the ISIS.

In the case of *Adv. Anoop V.R v Union of India (2023)*, Adv. Anoop V.R. argued that the teaser of the film that had been released on the YouTube channel of “Sunshine Pictures” on 22nd March 2022 put forward false and misleading facts intended to provoke members of a particular religious sect that would lead to the disruption of public order and compromise of public morality under Sections 5B and 5C of the Cinematograph Act, 1952 and demanded for an injunction against the release of the film³⁰. The Central Board of Film had demanded omission of multiple scenes from the film (most of which were pertinent to the film’s narrative) and the addition of a disclaimer stating that the film was a work of fiction and the events shown in the

²⁹ Tiwari S, ‘The Kashmir Files| Plea before Telangana High Court Objecting “certain Scenes” Dismissed as Withdrawn’ (28 March 2022) <<https://lawbeat.in/news-updates/kashmir-files-plea-telangana-high-court-objecting-certain-scenes-dismissed-withdrawn>>

³⁰ Cinematograph Act 1952, ss 5B–5C; Adv. Anoop V.R v Union of India (2023) SC.

film were highly dramatized and exaggerated in nature.

In and *Qurban Ali v Central Board of Film Certification (2023)* the film's certification itself that had been provided by the CBFC was challenged by the petitioners³¹. They argued that the film had made a false claim that "32,000" women had been converted to Islam and this false fact was intended to promote communal divisionism in the society and instigate violent unrest, hence, it was a gross violation of section 5B of the Cinematograph Act. They stated that the display of such allegedly false facts tended to undermine the principle of secularism enshrined in the Constitution of India. The Supreme Court directed the makers of the film to put forward a clearer disclaimer stating that the film was a complete work of fiction and the resemblance of any events depicted in the film to real life events was merely coincidental.

In both these cases initially the State Government of States like West Bengal and Tamil Nadu had imposed an absolute ban on the screening of this film³² stating that the film would incite communal violence. This was absolutely unjustified as this action was taken solely based on apprehensions without actually critically assessing the content of the film. The Supreme Court did take action in this case by staying the ban imposed by West Bengal Government, however these actions were taken after a substantial amount of time had passed. This delay severely affected state wise box office collections of the film as well as the national gross box office collection and net box office collection of the film. This caused economic loss to the producer of the film. Secondly the addition of disclaimers³³, where the producers were asked to state that the film is completely a work of fiction, undermined the credibility of the film and filmmakers in the eyes of the audience which could affect the business of their future projects. Hence in this case the action taken by the State Governments and the Supreme Court was majorly unjustified.

A COMPARISON OF THE CASES- IDENTIFICATION OF UNDERLYING TRENDS

Most of the discussed cases show that censorship was often applied arbitrarily. Censorship was often justified on morality or political grounds, but sometimes courts upheld

³¹ *Qurban Ali v CBFC (2023) SC*.

³² 'The Kerala Story: Supreme Court Lifts West Bengal's Ban on Islamic State Film' (18 May 2023) <<https://www.bbc.com/news/world-asia-india-65559491>>

³³ Bureau TH, 'The Kerala Story | SC Stays Bengal Ban, Asks T.N. to Provide Security to Theatres' *The Hindu* (18 May 2023) <<https://www.thehindu.com/news/national/supreme-court-hearing-a-plea-challenging-grant-of-certification-by-cbfc-to-the-kerala-story-movie/article66865602.ece>>

free speech³⁴. Although, the respective administrative and regulatory bodies surrendered to such causes, there were some rare instances where these were set aside and the laws regarding censorship were upheld³⁵. In the instance of *K.A. Abbas v Union of India (1970)* the Supreme Court ordered for the removal of certain scenes in the film, which depicted themes like poverty and prostitution, which the court considered to be harmful for the public's perception of society. However, in the case of *S. Rangarajan v P. Jagjivan Ram (1989)* where the film in question *Ore Oru Gramathile* criticized the caste-based reservation policies of the government, the Supreme Court stated that censorship could not be exposed on the film just because it would be dissented by some political groups. Here a clear contradiction can be seen in the approach of the Supreme Court where on one hand it upheld the right to free speech and said that political reasons could not be allowed to curtail the same, on the other hand it censored a film depicting social issues simply because it presumed that the audience would not find its visuals comfortable³⁶. This highlights the fact that decisions passed by bodies like the Supreme Court or the CBFC often tend to be unjustified, whimsical and to a certain extent biased in nature³⁷.

Furthermore, in the case of *K.A. Abbas v Union of India (1970)*, the removal of such scenes set precedent for “pre-censorship”³⁸ in India which can be noticed in future cases like *Manohar Lal Sharma v Sanjay Leela Bhansali (2017)*, *Mohammed Sami Ullah Qureshi v Government of Telangana (2022)*, *Adv. Anoop V.R v Union of India (2023)* and *Qurban Ali v Central Board of Film Certification (2023)*³⁹. In all these cases either the state governments imposed “pre-censorship” themselves or individuals filed appeals for the same. However, the commonality in all these situations is that these actions were taken based merely on ‘presumptions’ and ‘anticipations. In the case of *Manohar Lal Sharma v Sanjay Leela Bhansali (2017)* it was assumed that the film would mock respected historical figures of the Rajput community and on this basis the petitioners required to prohibit the release of the film *Padmavat*. In the case of *Adv. Anoop V.R v Union of India (2023)* an overall ban was already imposed on the film “The Kerala Story” by the government of West Bengal and Tamil Nadu before the matter was

³⁴ Editor, ‘Censorship and Films: Silencing the Cinematic Voice’ (SCC Times, 20 July 2025)

<<https://www.scconline.com/blog/post/2025/07/20/censorship-and-films-silencing-cinematic-voice/>>

³⁵ *K.A. Abbas v Union of India (1970)* 2 SCC 780; *Manohar Lal Sharma v Sanjay Leela Bhansali (2017)*

³⁶ ‘Unveiling the Veil: Evolution of Censorship in Indian Cinema and the Quest for Artistic Freedom’ (IPLF, 5 June 2024) <<https://www.ipandlegalfilings.com/unveiling-the-veil-evolution-of-censorship-in-indian-cinema-and-the-quest-for-artistic-freedom/>>

³⁷ *Mohammed Sami Ullah Qureshi v Government of Telangana (2022)*; *Adv. Anoop V.R v Union of India (2023)*.

³⁸ Natarajan A, ‘Film Certification In India And The Curse Of Pre-Censorship’ (2 June 2017)

<<https://www.livelaw.in/film-certification-india-curse-pre-censorship>>

³⁹ *Qurban Ali v CBFC (2023)* SC.

decided by the Supreme Court.

This action was taken based on the fact that the state governments anticipated violent unrest in the state due to the depiction of certain themes in the film. Something that can be noted here is that the state governments did not follow any standard legal procedure in this instance before placing an overall ban on the said film, and hence the action taken was highly arbitrary and unjustified in nature. In the case of *Qurban Ali v Central Board of Film Certification (2023)* as well, the petitioners did not give any solid reason as to why they demanded for such scrutiny other than the fact they themselves felt/considered that certain scenes in the film could possibly hurt religious sentiments.

Here we can understand that several issues arise in Indian cinema censorship. First, films are often censored, pre-censored, or banned based on assumptions. Second, decisions are sometimes made at the convenience of courts, the government, or the CBFC, without following proper procedures like scene-by-scene review by qualified critics. Third, the public's right to file appeals is often misused. Weak petitions are sometimes accepted by courts instead of being rejected promptly.

CONCLUSION AND THE WAY FORWARD

In conclusion, taking into account the legal provisions, relevant cases, observations and findings related to the matter one could justifiably state that censorship in Indian cinema is predominantly unjustified in nature. The action taken by the courts, state governments and the CBFC are often taken due to fear or anticipation of threat to social order, instead of actual violation of the law itself. This reflects a very paternalistic and oppressive style of administration displayed by the government when it comes to the regulation of Indian Cinema. As new acts are introduced on a regular basis in the nation and are also amended time again, the same needs to be done in the case of media and entertainment laws as well, especially with regard to Cinematograph Act 1952 and Cinematograph (Certification) Rules 2024.

As the society progresses and continues to evolve, the mindset of individuals also changes and so does the thinking process of film makers. Film makers nowadays either come up with new content or come up with new ways/ interpretations of the content that has been displayed on the silver screen since ages. Martin Scorsese famously stated "Cinema is a matter of what's in the frame and what's" which implies that society shapes cinema and cinema shapes the society.

Hence, laws regarding censorship should be inclusive in nature and should allow film makers to depict their creativity. They should not aim to eradicate but to infuse, making minor necessary changes/omissions in the film instead of imposing arbitrary overall bans over the release/screening of a film. This would allow the maximum no. of directors and producers to avail the maximum number of screens and reach the widest range of audience possible but at the same time maintaining the safety and security of the state, the people and their sentiments. Moreover, when a state government considers a film to be provocative in nature or petitions are filed against the release of a film, in this situation the film should be carefully examined by the courts before releasing a verdict. There should be special ad-hoc committees formed by the government consisting of members from the film fraternity such as renowned actors, directors, screenplay writers and well qualified film critiques who would be in a suitable position to judge both the content and context of the film and make an informed decision regarding its fate.