
ANALYSIS OF CENTRAL BOARD OF FILM CERTIFICATION AS A REGULATORY AUTHORITY IN INDIA

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INTRODUCTION

Cinema has always been one of the most powerful mediums of mass communication in India. Films are not only a form of entertainment but also instruments of social influence, capable of shaping public opinion, spreading cultural values, and sometimes even challenging established norms. Recognizing this unique impact, the Indian state has developed mechanisms to regulate the exhibition of films, with the Central Board of Film Certification (CBFC) being the principal regulatory authority. The CBFC, established under the Cinematograph Act 1952¹, is tasked with examining and certifying films before they are released for public viewing.

The constitutional basis of CBFC's powers lies in Article 246 read with Entry 60 of the Union List in the Seventh Schedule, which empowers Parliament to legislate on the sanctioning of films for exhibition, as well as Article 19(2), which allows the state to impose reasonable restrictions on the freedom of speech and expression guaranteed under Article 19(1)(a)². Thus, CBFC operates at the intersection of two competing interests: the individual's right to freedom of expression and the state's duty to protect public order, morality, and security.

However, the CBFC has often been criticised for exceeding its role as a certifying authority by functioning as a censoring body. This has raised concerns of regulatory overreach and questions about its alignment with the principles of administrative law, namely legality, proportionality, accountability, and natural justice. Judicial interventions, such as in *K A Abbas v Union of India*³ and the *Udta Punjab case*⁴, reflect the ongoing tension between regulatory

¹ The Cinematograph Act 1952, No 37 of 1952.

² Constitution of India 1950, arts 19(1)(a), 19(2), 246, Seventh Schedule List I Entry 60.

³ *K.A. Abbas v Union of India* AIR 1971 SC 481.

⁴ *Phantom Films Pvt Ltd v CBFC*, 2016 Bombay HC.

control and creative freedom.

This project seeks to analyse the CBFC not merely as a cultural authority but as a statutory regulatory body within India's system of governance. The study will proceed in three chapters: first, examining CBFC's place within governance and administrative law; second, analysing its functions and characteristics as a regulatory body; and third, evaluating challenges and reforms. The scope of the project is confined to the governance and administrative aspects of CBFC, focusing on how it functions within the boundaries of constitutional and statutory law, and how reforms may strengthen its legitimacy as a regulatory authority.

CONCEPT OF REGULATORY BODIES IN INDIAN GOVERNANCE

The growth of the administrative state in India has necessitated the creation of specialised regulatory authorities to address complex governance challenges. These bodies are established by statutes and are entrusted with powers that are legislative, executive, and quasi-judicial in nature. They ensure focused regulation in sectors such as securities, telecommunications, electricity, and cinema. Illustrative examples include the Securities and Exchange Board of India (SEBI), the Telecom Regulatory Authority of India (TRAI), and the Central Board of Film Certification (CBFC).

From the perspective of administrative law, regulatory authorities are governed by the principles of legality, accountability, proportionality, and natural justice. As creatures of statute, they cannot exceed the powers conferred by their enabling Acts. Their decisions are subject to judicial review under Articles 32 and 226 of the Constitution, ensuring that they do not violate equality before the law under Article 14 or freedom of expression under Article 19. The Supreme Court has highlighted that the distinction between administrative and quasi-judicial functions is narrowing, and both are subject to the principles of fairness and reasonableness.⁵

The constitutional foundation for regulatory authorities lies in Article 246 of the Constitution, which distributes legislative competence between the Union and States, read with the Seventh Schedule. Specifically, Entry 60 of the Union List empowers Parliament to legislate on

⁵ A K Kraipak v Union of India AIR 1970 SC 150.

“sanctioning of cinematograph films for exhibition”⁶. Pursuant to this power, the Parliament enacted the Cinematograph Act 1952, which remains the parent legislation for the CBFC.⁷

Regulatory bodies play a dual role in governance: they ensure compliance with statutory frameworks and mediate between individual rights and collective societal concerns such as morality, decency, sovereignty, and public order. The Supreme Court in *K A Abbas v Union of India* upheld the system of pre-censorship of films, reasoning that films have a stronger and more lasting influence on public opinion than other forms of expression. However, it simultaneously emphasised that restrictions must remain within the scope of Article 19(2), ensuring that CBFC’s powers are not exercised arbitrarily.⁸

Accordingly, the concept of regulatory bodies in Indian governance reflects a balance between constitutional rights and statutory restrictions, shaped by administrative law principles. In the cultural field, CBFC exemplifies this model, tasked with safeguarding freedom of expression while regulating cinema in the interest of public order and morality.

CONSTITUTIONAL AND STATUTORY MANDATE

The legal authority of the Central Board of Film Certification (CBFC) is anchored fundamentally in the Constitution of India, complemented by subsequent statutory enactments and procedural regulations.

Under Article 246 of the Constitution, the distribution of legislative power between Parliament and the States is formalized through the Seventh Schedule. Specifically, Entry 60 of the Union List empowers Parliament to legislate on the “sanctioning of cinematograph films for exhibition”⁹, forming the constitutional bedrock of CBFC’s existence. In parallel, CBFC’s mandate must operate within the bounds of Article 19(1)(a), which guarantees freedom of speech and expression, and the limitations permitted under Article 19(2), allowing reasonable restrictions in the interest of sovereignty, public order, decency, and morality.¹⁰ Consequently, CBFC exists at the intersection of these twin constitutional imperatives.

Pursuant to Entry 60, Parliament enacted the Cinematograph Act 1952, thereby creating CBFC

⁶ Constitution of India 1950, arts 14, 19(1)(a), 19(2), 32, 226, 246, Seventh Schedule List I Entry 60.

⁷ The Cinematograph Act 1952, No 37 of 1952.

⁸ *K A Abbas v Union of India* AIR 1971 SC 481.

⁹ *Ibid* 2.

¹⁰ Constitution of India 1950, arts 19(1)(a), 19(2).

under Section 3. The Act outlines certification categories, such as U (Universal), UA (Parental Guidance), A (Adults), and S (Special), under Section 4, along with authority to refuse or require modifications under Section 5B(1) when content contravenes the grounds specified in Article 19(2).¹¹ In recognition of evolving industry practices, the Cinematograph Act was amended in 2023 to modernize the regulatory framework. Following this, the government notified the updated Cinematograph (Certification) Rules, 2024, which supersede the 1983 rules.

These Rules introduce significant reforms, including mandatory online certification processes, reduced processing timelines, mandatory accessibility features, age-based UA sub-categories (UA 7+, UA 13+, UA 16+), enhanced gender representation on CBFC panels, provisions for priority screening, perpetual validity for certificates, and recertification requirements for television broadcast.¹²

Judicial interpretation further refines CBFC's mandate. In *S Rangarajan v P Jagjivan Ram*, the Supreme Court held that film suppression cannot be justified merely on grounds of offensiveness; a real and proximate threat to public order must be established to justify limitations under Article 19(2) (*S Rangarajan v P Jagjivan Ram* (1989) 2 SCC 574). This establishes an important precedent requiring CBFC's regulatory discretion to remain proportionate and legally justified.

Together, these constitutional provisions, statutory enactments, administrative rules, and judicial pronouncements define the scope and limits of CBFC's authority, balancing statutory power with constitutional safeguards. Thus, CBFC's authority derives from a constitutional allocation of legislative competence, statutory provisions in the Cinematograph Act, and procedural rules. Yet, its discretion is limited by constitutional guarantees and judicial oversight, ensuring a balance between governance and liberty.

ROLE OF CBFC IN GOVERNANCE

The Central Board of Film Certification (CBFC) functions as a statutory regulatory authority under the Ministry of Information & Broadcasting, exercising delegated powers granted by

¹¹The Cinematograph Act 1952, No 37 of 1952.

¹² Cinematograph (Certification) Rules, 2024; Ministry of I&B Press Release, 15 March 2024.

Parliament to examine and certify films for public exhibition.¹³ The Cinematograph (Amendment) Act, 2023 modernised several provisions of the parent statute and the government subsequently notified the Cinematograph (Certification) Rules, 2024 to replace the earlier procedural framework.¹⁴

CBFC's institutional mandate is to regulate cinema as an aspect of cultural governance, balancing creative expression with collective interests such as public order, decency, morality and national security, within the constitutional limitations of Article 19.¹⁵ This dual role makes CBFC a regulatory actor whose decisions must be evaluated through administrative law doctrines, legality, proportionality, reasoned decision-making and accountability, rather than through purely moral or political criteria.¹⁶

Longstanding governance concerns include administrative overreach, executive influence in appointments and policy, and limited institutional autonomy. The Shyam Benegal Committee (constituted in 2016) explicitly found that CBFC's mandate had often blurred certification with censorship and recommended a re-orientation towards clear certification guidelines, enhanced transparency, diversification of panels, and stronger accountability mechanisms.¹⁷ Several recommendations of the Committee informed later legislative and rule-level changes, including provisions in the 2023 amendment and the 2024 Rules aimed at streamlining processes and improving representation.¹⁸

Judicial pronouncements have played a corrective role in delimiting CBFC's governance powers. The Supreme Court in *Prakash Jha Productions v Union of India* held that once CBFC grants certification under the statutory scheme, state authorities cannot arbitrarily impede exhibition, thereby protecting the statutory certification process from executive usurpation and reinforcing the rule of law in cultural regulation.¹⁹ Courts have repeatedly insisted that CBFC's discretion be exercised with adequate reasons, procedural fairness and proportionality, thereby anchoring the Board's governance function within the constitutional and administrative law

¹³ Ibid 1.

¹⁴ The Cinematograph (Amendment) Act 2023) (Cinematograph (Certification) Rules 2024.

¹⁵ Constitution of India 1950, arts 19(1)(a), 19(2).

¹⁶ Ibid.

¹⁷ Report of the Committee on Film Certification under Shyam Benegal' (Ministry of Information & Broadcasting, 2016).

¹⁸ Report of the Committee on Film Certification under Shyam Benegal' (Ministry of Information & Broadcasting, 2016) (Cinematograph (Certification) Rules 2024.

¹⁹ *Prakash Jha Productions v Union of India* (2011) 8 SCC 372.

framework.

In sum, CBFC's role in governance is that of a statutory regulator whose legitimacy depends on transparent procedures, limited and well-defined discretion, insulation from partisan influence, and accountability through judicial review and institutional safeguards. Recent statutory and rule changes address some long-standing deficits, but sustained reform on appointments, appellate mechanisms and procedural transparency remains necessary to ensure CBFC functions primarily as a certifying, rather than censorial, authority.²⁰

FUNCTIONS OF CBFC

The Central Board of Film Certification (CBFC) derives its statutory duties from the Cinematograph Act, 1952 and the rules made thereunder; its functions are primarily the certification of films for public exhibition, supervision of compliance with certification conditions, and maintenance of records of certification.²¹

The Act prescribes the classification framework for films. Section 4 provides for distinct certification categories including Universal (U), Unrestricted but with Age markers (UA with UA-markers introduced by amendment), Adult (A) and Special (S), thereby enabling regulated public access according to age and sensitivity.²²

CBFC has statutory authority to require modification or to refuse certification where a film is found to contravene the grounds permissible under Article 19(2) of the Constitution, such as threats to public order, decency, morality or sovereignty; this power is exercised under Section 5B(1) of the Act, subject to principles of reasonableness and proportionality.²³

Procedural aspects of these functions are now governed by the Cinematograph (Certification) Rules, 2024, which supersede the earlier 1983 Rules and set out a modernised, time-bound process. The 2024 Rules provide for online application and examination via the e-cinepramaan portal, constitution of advisory panels and examining officers, strict timelines for scrutiny and certification, maintenance of electronic records, perpetual validity of certificates, and

²⁰ The Cinematograph (Amendment) Act 2023) (Cinematograph (Certification) Rules 2024.

²¹ The Cinematograph Act 1952, s 3-5.

²² The Cinematograph Act 1952, s 4.

²³ The Cinematograph Act 1952, s 5B (1).

procedural safeguards for applicants.²⁴

The Board performs quasi-judicial functions when it examines films, solicits expert opinion, conducts hearings where necessary, records reasons for certification decisions, and issues reasoned orders or directions for modification; these actions must satisfy the standards of procedural fairness and reasoned decision-making familiar to administrative law. (Cinematograph (Certification) Rules 2024)

An important practical consequence of statutory and rule-based procedure is the appellate pathway. The Film Certification Appellate Tribunal (FCAT) was abolished under tribunal reforms in 2021, and aggrieved parties now resort to High Courts for review of CBFC decisions, thereby altering the remedial architecture available to filmmakers.²⁵

Judicial scrutiny has repeatedly emphasised that the Board's discretion under Section 5B must be exercised within narrow constitutional limits. In *F A Picture International v Central Board of Film Certification* the Bombay High Court overturned CBFC's refusal to certify a film about communal violence, observing that censorship must be confined to the narrowest limits and that administrative bodies must not misread their statutory function.²⁶

Together, the statute, the 2024 Rules and judicial precedents map CBFC's core functions: classification, enforcement of certification conditions, reasoned and time-bound decision-making, and record-keeping, all subject to constitutional constraints and judicial review. (The Cinematograph Act 1952, s 3 to 5; Cinematograph.²⁷

CHARACTERISTICS OF CBFC AS A REGULATORY BODY

The Central Board of Film Certification (CBFC) is a statutory body constituted by Parliament to discharge the regulatory function of film certification under the Cinematograph Act. The Board is established under Section 3 of the Act, which authorises the Central Government to constitute the Board by notification and specify its composition.²⁸

CBFC's composition and appointment mechanism demonstrate executive dependency.

²⁴ Cinematograph (Certification) Rules 2024.

²⁵ Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021.

²⁶ *F A Picture International v Central Board of Film Certification* AIR 2005 Bom 145.

²⁷ (Certification) Rules 2024; *F A Picture International v Central Board of Film Certification* AIR 2005 Bom 145

²⁸ The Cinematograph Act 1952, s 3.

Members and the Chairperson are appointed by the Central Government; the recently notified Cinematograph (Certification) Rules, 2024 preserve this executive role and additionally specify terms of office, including that members hold office during the pleasure of the Central Government and that the Chairperson's term is three years unless otherwise notified. This structural design situates CBFC within the executive branch and exposes it to political influence, a feature repeatedly highlighted by critics and reform committees.

CBFC has a quasi-judicial character in practice. While not a court, the Board and its examining officers and advisory panels conduct hearings, evaluate evidence and expert opinion, record reasons for decisions, and issue orders that affect rights of filmmakers and distributors; such decisions are amenable to judicial review under Articles 226 and 32 of the Constitution. The removal of the Film Certification Appellate Tribunal (FCAT) in 2021 means that aggrieved parties must now seek redress before High Courts, altering the remedial architecture available for administrative review.²⁹

A defining characteristic is wide discretionary power. Section 5B of the Act empowers CBFC to require modifications or refuse certification where a film conflicts with the grounds permitted under Article 19(2), such as public order, decency and morality, leaving substantial interpretive space to the Board in deciding what amounts to “decency” or “public order.”³⁰ Judicial scrutiny, however, requires that such discretion be exercised consistently, reasonably and proportionately.³¹

Compared with other Indian statutory regulators, CBFC is relatively non-autonomous. SEBI and TRAI, while also constituted by statute and having members appointed by the Central Government, operate with structural safeguards, dedicated adjudicatory tribunals, specified tenure protections and, in practice, institutional practices that bolster independent decision-making.³² By contrast, CBFC's board members serve at the pleasure of the government and post-FCAT abolition the direct appellate forum is the High Court, a difference that reduces the perceived institutional autonomy of CBFC.

The *Uda Punjab* litigation exemplifies these features: the Bombay High Court struck down most of the CBFC's cuts and observed that the Board must exercise its powers as a certifying

²⁹ Tribunals Reforms (Rationalization and Conditions of Service) Ordinance 2021.

³⁰ The Cinematograph Act 1952, s 5B(1).

³¹ *F A Picture International v Central Board of Film Certification* AIR 2005 Bom 145.

³² Securities and Exchange Board of India Act 1992, s 4.

body and not as a censorial authority imposing arbitrary edits.³³ That case demonstrates how CBFC's discretionary and quasi-judicial functions are subjected to judicial correction when they transgress administrative law norms.

In sum, CBFC combines statutory creation, executive dependence, quasi-judicial operation and broad discretion, a mix that requires robust procedural safeguards, tenure protections and transparent appointment processes to align the Board's functioning with administrative law norms and to safeguard its legitimacy as a modern regulatory authority. (The Cinematograph Act 1952, s 3; Cinematograph (Certification) Rules 2024; Tribunals Reforms.

CBFC AND ADMINISTRATIVE LAW PRINCIPLES

The Central Board of Film Certification (CBFC) operates within a matrix of administrative law principles that define, constrain and legitimize the exercise of its regulatory powers. These principles, legality, proportionality, reasoned decision-making, natural justice, accountability, non-arbitrariness, and judicial review, provide the doctrinal scaffolding for assessing whether CBFC's actions conform to constitutional and statutory limits, and whether the Board functions as a proper regulatory authority rather than as an instrument of ad hoc censorship.³⁴

Legality (Statutory Limit and Delegation)-

The first and foremost requirement is that CBFC must act within the powers expressly granted by statute; any exercise of power beyond the Cinematograph Act or its rules is ultra vires. The Act and the 2024 Rules delineate categories of certification and grounds for modification or refusal, and the Board's discretion must be constrained by these texts. Administrative action devoid of statutory basis is incompatible with the rule-of-law principle. The Supreme Court's jurisprudence underlines that delegated powers must be exercised according to the enabling statute and that excessive delegation without standards invites judicial correction.³⁵

Proportionality and Reasonableness-

Regulatory actions that restrict freedom of expression must satisfy proportionality: the restriction must pursue a legitimate aim, be suitable to achieve that aim, be necessary (no less-

³³ Phantom Films Pvt Ltd v Central Board of Film Certification Writ Petition (L) No. 1529 of 2016 Bombay HC.

³⁴ Constitution of India 1950, arts 14, 19(1)(a), 19(2).

³⁵ A K Kraipak v Union of India AIR 1970 SC 150.

restrictive alternative), and be proportionate *stricto sensu* (the benefits must outweigh the detriment to rights). Indian courts have repeatedly required that film regulation not be arbitrary or excessive; suppression is permissible only when a proximate threat to public order or other Article 19(2) ground is demonstrated.³⁶ This constitutes a judicial check that CBFC's modifications or refusals be proportionate, not punitive.

Natural Justice and Procedural Fairness-

Where administrative decisions affect rights or economic interests, models of procedural fairness must be observed: notice, an opportunity to be heard, and reasoned decisions. CBFC's procedures, advisory panels, hearings, and the requirement to furnish reasons, are intended to operationalize natural justice. Removal of intermediary appellate forums (such as FCAT) heightens the importance of correct procedure at the initial decision stage because immediate recourse often means High Court intervention under Articles 226/32. Failure to provide adequate procedures has invited judicial intervention in past film certification disputes.

Reasoned Decision-Making and Transparency-

Administrative law requires that public authorities state reasons so that decisions can be evaluated for legality and rationality. CBFC's issuance of reasoned orders facilitates review and public accountability. Transparency in the composition of panels, grounds for cuts, and the reasoning behind classification decisions enhances predictability and reduces allegations of arbitrariness. The Shyam Benegal Committee and subsequent rule changes emphasised clear guidelines and published standards to limit subjectivity.³⁷

Non-arbitrariness and Consistency-

Administrative discretion must be exercised consistently; like cases should be treated alike. In the film context, similar themes or depictions should attract similar certification outcomes, barring distinguishing features. Judicial critiques, such as in *F A Picture* and *Uda Punjab*, expose the cost of inconsistent treatment: loss of regulator legitimacy and frequent litigation. Consistency is achieved through objective guidelines, panel training, and institutional records which the 2024 Rules seek to strengthen.

³⁶ *S Rangarajan v P Jagjivan Ram* (1989) 2 SCC 574.

³⁷ Report of the Committee on Film Certification under Shyam Benegal (Ministry of I&B, 2016).

Accountability and Judicial Review-

Judicial review operates as the principal accountability mechanism for CBFC. Courts assess whether decisions are within power, reasonable, procedurally fair and proportionate. Landmark rulings, affirming both the constitutional permissibility of film regulation and the strictures against excessive censorship, demonstrate the judiciary's role in calibrating regulatory boundaries. The Prakash Jha principle that certification, once validly granted, should not be thwarted by executive fiat exemplifies judicial protection of statutory process. Recent multi-bench High Court engagement in the Zee Entertainment matter further illustrates contemporary judicial oversight.³⁸

Legitimate Expectation and Reliance Interests-

Filmmakers may develop legitimate expectations based on established practice or prior assurances regarding certification timelines or criteria. Administrative law vindicates such expectations where they arise from consistent conduct or explicit promises by the authority; abrupt departures without consultation or reasoned justification can attract remedial relief. The 2024 Rules' time-bound processes and perpetual validity provisions seek to reduce disruptive uncertainty and protect reliance interests.

Separation of Powers and Executive Influence-

A regulator must enjoy a degree of insulation from partisan executive control to preserve impartiality. Appointment mechanisms, tenure security, and institutional safeguards reduce capture risks. CBFC's continuing executive dependency, appointments by government and members 'serving at pleasure' in earlier practice, has been a recurring governance concern. Reforms recommended by expert committees and reflected partially in recent amendments aim to enhance professionalization and reduce ad hoc political influence, thereby aligning CBFC more closely with modern regulatory governance models like SEBI and TRAI.

CBFC's REGULATORY AUTHORITY IN PRACTICE

The Central Board of Film Certification (CBFC) exercises its regulatory authority primarily under the Cinematograph Act and the rules made thereunder, carrying out statutory functions

³⁸ Zee Entertainment Enterprises Ltd v Central Board of Film Certification (Bombay HC & MPHC orders).

of examination, classification, certification and conditional clearance of films intended for public exhibition. Recent legislative reform and rule-making have updated the operational framework: the Cinematograph (Amendment) Act 2023 introduced substantive changes to modernize the statute, and the Cinematograph (Certification) Rules, 2024 now set out the contemporary, largely digital procedure for submission, scrutiny, advisory-panel examination, reasoned certification and maintenance of administrative records.³⁹ These instruments together prescribe the formal stages of administrative action, application, expert appraisal, possible hearing, issuance of a reasoned certificate, and record-keeping, that constitute CBFC's day-to-day exercise of regulatory power.

Every exercise of certification or modification by CBFC must be understood against the constitutional guarantee of freedom of speech and expression and the permissible limitations that Parliament may prescribe. Under Article 19(1)(a) the right to free expression is protected, while Article 19(2) permits reasonable restrictions in the interests of sovereignty, public order, decency, morality and related grounds; CBFC's statutory authority to refuse or require modification of a film is expressly linked to these constitutionally recognised grounds and must be exercised in a manner that is lawful, necessary and proportionate.⁴⁰ The 2024 Rules reiterate the need for reasoned decisions and procedural safeguards so that any limitation on expression can be meaningfully reviewed by courts for conformity with administrative law standards of proportionality and rational justification.⁴¹

Beyond the narrow legality of particular cuts or classifications, CBFC performs a broader role in cultural governance: through classification norms and certification conditions the Board helps to delineate the contours of permissible public discourse, mediating between artistic autonomy and collective concerns. (The Cinematograph Act 1952) Classification categories, age markers and content notes shape distribution, marketing and audience access, and thus have systemic effects on creative choices and the commercial life of films. The regulatory choices made by CBFC therefore implicate policy questions, about public morality, historical responsibility, minority sensitivities and national security, that go beyond isolated administrative acts and speak to the Board's institutional function in shaping cultural norms.

Judicial review has been the principal corrective mechanism ensuring that CBFC's regulatory

³⁹ The Cinematograph (Amendment) Act 2023.

⁴⁰ The Cinematograph Act 1952, s 5B (1).

⁴¹ Cinematograph (Certification) Rules 2024.

authority is exercised within constitutional and statutory limits. Foundational decisions have articulated the parameters for acceptable regulation: the Supreme Court in *K A Abbas* recognised the constitutional basis for pre-certification while insisting on legal limits to avoid arbitrary censorship, and *S Rangarajan v Jagjivan Ram* established the requirement of a real and proximate threat to public order before expression may be suppressed.⁴² *Prakash Jha Productions* further protected the statutory certification process by holding that once certification is validly granted, executive authorities cannot arbitrarily frustrate exhibition, thereby reinforcing the rule of law vis-à-vis executive interference.⁴³

More recent and fact-sensitive rulings continue to shape practice. Decisions such as *F A Picture* and the *Udta Punjab* litigation have curtailed arbitrary or disproportionate edits and reaffirmed that CBFC must act as a certifying, not a censorial, authority; in *Udta Punjab* the Bombay High Court struck down most of CBFC's cuts as excessive and without adequate reasoning, emphasising proportionality and procedural fairness.⁴⁴ The *Zee Entertainment* matter in September 2024, addressed by both the Madhya Pradesh and Bombay High Courts, exemplifies contemporary judicial engagement: courts insisted on stakeholder hearing, coordinated judicial propriety and adherence to statutory procedure, thereby illustrating how multiple benches may intervene to ensure administrative correctness and protect procedural rights.⁴⁵ Collectively, these judicial controls demonstrate that while CBFC's statutory authority is broad, its practical exercise is continually shaped and constrained by constitutional safeguards, evolving procedural rules and sustained judicial oversight.

GOVERNANCE AND ADMINISTRATIVE CHALLENGES

The Central Board of Film Certification (CBFC) faces a constellation of governance and administrative problems that impair its efficacy as a modern regulatory authority. At the core is a recurrent tendency toward regulatory overreach, where the Board's classification mandate is sometimes subsumed by practices resembling substantive censorship. Such overreach has produced inconsistent cuts, excessive modifications and decisions that courts have repeatedly

⁴² *K A Abbas v Union of India* AIR 1971 SC 481.

⁴³ *Prakash Jha Productions v Union of India* (2011) 8 SCC 372.

⁴⁴ *F A Picture International v Central Board of Film Certification* AIR 2005 Bom 145.

⁴⁵ *Zee Entertainment Enterprises Ltd v Central Board of Film Certification* (Bombay HC & MPHC orders, 2024).

found disproportionate to any demonstrable public-order risk.⁴⁶

Executive influence and politicisation constitute a second major challenge. Appointment processes and institutional control rest with the Central Government, and the prospect of members serving at the executive's pleasure can compromise perceived impartiality and independence. Critics and reform bodies have identified politicised appointments and ad-hoc composition of panels as drivers of decisions that reflect political considerations rather than consistent regulatory standards.⁴⁷

Incoherence and inconsistency in certification outcomes further undermine regulatory legitimacy. The absence of detailed, objective guidelines until recent rule reforms meant that like cases were sometimes treated differently, producing unpredictability for filmmakers and distributors. Inconsistent decision-making increases litigation, raises compliance costs and diminishes public trust in the regulator's neutrality. Judicial interventions in *F A Picture* and other matters highlight how inconsistent application of Section 5B invites correction.

Procedural delays and bureaucratic inefficiencies form another persistent problem. Slow timelines, multiple rounds of examination, and uncertain processing schedules impose economic costs and disrupt release cycles. These delays discourage industry planning and can chill creative investment. The 2024 Rules introduce online filing and prescribed timelines precisely to address these procedural bottlenecks, but implementation and administrative capacity remain crucial to deliver the promised efficiency gains.

The remedial architecture available to aggrieved parties is also weakened. The abolition of the Film Certification Appellate Tribunal (FCAT) under tribunal reforms redirected appeals to High Courts, lengthening and complicating the review route and raising access-to-justice concerns for resource-constrained producers. This structural change has practical implications for administrative accountability and timely redress.

Transparency deficits and limited stakeholder consultation exacerbate these governance problems. Historically, the reasoning behind cuts or classifications was often opaque, and consultation with filmmakers, subject-matter experts and civil society was ad hoc. The Shyam

⁴⁶ *Phantom Films Pvt Ltd v Central Board of Film Certification Writ Petition (L) No 1529 of 2016* (Bombay HC).

⁴⁷ The Cinematograph Act 1952, s 3) (Report of the Committee on Film Certification under Shyam Benegal (Ministry of I&B, 2016).

Benegal Committee recommended greater transparency, published guidelines and participatory processes; elements of that agenda are reflected in the 2023 amendment and the 2024 Rules, but full institutionalization of consultative practices remains incomplete.⁴⁸

Capacity constraints, such as limited professional training for panel members, uneven regional representation, and scarce technical resources, affect the quality of CBFC's quasi-adjudicatory work. Effective classification in a diverse society requires panels with legal, technical and cultural expertise; ad hoc or short-tenure appointments reduce institutional memory and degrade decision-making quality. The 2024 Rules' provisions on panel composition and representation are intended to improve this, but execution will determine impact.

Finally, the regulatory environment has been complicated by the rise of digital distribution and OTT platforms. While the 2023 Amendment and 2024 Rules modernise film certification procedures, jurisdictional overlaps and the shifting locus of content consumption create enforcement and coherence challenges for a regulator designed in a pre-digital era. A comprehensive governance response requires statutory clarity, inter-agency coordination and adaptable institutional processes.

In sum, CBFC's governance problems are structural and procedural: executive dependence, inconsistent discretion, procedural delay, weakened appeal mechanisms, transparency and capacity shortfalls, and the demands of digital transition.⁴⁹ Recent legislative and rule reforms have begun to address several of these concerns, but durable improvement will depend on implementing appointment reforms, clear statutory standards, stronger procedural safeguards, and adequate resources to operationalise the 2024 Rules in letter and spirit.

REFORM PROPOSALS IN LAW AND POLICY

The following reform proposals combine legal drafting changes, institutional redesign and practical administrative measures. Each recommendation is intended to bring CBFC's functioning into closer alignment with administrative-law norms, legality, proportionality, transparency and accountability, while remaining practicable for policymakers and

⁴⁸ Report of the Committee on Film Certification under Shyam Benegal' (Ministry of I&B, 2016).

⁴⁹ LiveLaw, 'MP HC Orders CBFC to Reconsider Refusal of Certification for Zee Entertainment's Film' (LiveLaw, 3 September 2024) <<https://www.livelaw.in/top-stories/emergency-movie-yet-receive-censor-board-clearance-cbfc-madhya-pradesh-high-court-26848>>.

administratively implementable.

1. Clarify CBFC's mandate in the Act

The Cinematograph Act should clearly state that CBFC's primary role is certification of films, not censorship. Modification or refusal powers should be limited *to* cases where a film directly violates the grounds mentioned in Article 19(2), such as public order or national security. This reform will reduce the scope for arbitrary cuts and bring CBFC's functioning in line with constitutional limits.

2. Transparent and independent appointments

At present, the Chairperson and members of CBFC are appointed by the Central Government, creating scope for political influence. A transparent and independent selection process, possibly through a committee including judges, film experts, and civil society representatives, would strengthen CBFC's autonomy and credibility.⁵⁰

3. Establish an independent appellate tribunal

After the abolition of the Film Certification Appellate Tribunal (FCAT) in 2021, filmmakers must approach High Courts directly, which is time-consuming and expensive. Restoring a specialised appellate tribunal would provide quick, expert, and affordable remedies, ensuring accountability of CBFC decisions.

4. Publish detailed reasons for every decision

One major criticism of CBFC is lack of transparency, filmmakers often receive vague or inconsistent reasons for cuts. The law should make it mandatory for CBFC to publish short, clear, and reasoned orders for every certification decision. This would improve consistency, allow judicial scrutiny, and reduce arbitrariness.

5. Strict timelines for certification

Procedural delays often disrupt film releases and increase costs for producers. The 2024 Rules introduced online filing and time-bound processes, but these should be backed

⁵⁰ Report of the Committee on Film Certification under Shyam Benegal, 2016.

by a statutory guarantee in the Act itself. If timelines are not met, the law should provide for deemed certification or a fast-track remedy to prevent economic loss.

6. Better training and representation on panels

CBFC panels should include members from diverse professional backgrounds, law, psychology, child welfare, gender studies, and cinema, to ensure balanced and informed decision-making. Mandatory training on administrative law principles and cultural sensitivity will also improve the quality of decisions.

7. Protect certified films from arbitrary bans

Even after certification, films are sometimes stopped from release by state governments due to political pressure. The law should ensure that once CBFC certifies a film, exhibition cannot be prohibited except in extreme cases and with judicial approval. This would uphold the sanctity of certification.⁵¹

CONCLUSION AND SUGGESTIONS

This project has explored the Central Board of Film Certification (CBFC) as a statutory regulatory authority, analysing its legal foundation, administrative functions, and challenges within the broader framework of governance. From its origin in the Cinematograph Act 1952, grounded in Entry 60 of the Union List, to its contemporary functioning under the 2023 Amendment and 2024 Rules, CBFC's evolution reflects the continuing tension between artistic freedom and regulatory control. While intended as a certifying authority, CBFC has often acted more like a censor, leading to widespread criticism of regulatory overreach, executive interference, and opacity in decision-making.

The project's hypothesis, that CBFC must be repositioned as a certifying authority with limited censorial powers to achieve balance between governance and constitutional freedoms, has been validated. The study of primary sources (statutes, constitutional provisions, case law) and secondary materials (reports, scholarship) confirms that reforms rooted in administrative law principles such as legality, proportionality, natural justice, and accountability are both

⁵¹ Prakash Jha Productions v Union of India (2011) 8 SCC 372.

necessary and feasible.

To respond to the problems identified and criticisms historically levelled against CBFC, this project proposes the following key reforms:

1. **Clarify CBFC's mandate in the Act-** to state clearly that its role is certification, not censorship, with refusals limited to narrow Article 19(2) grounds.
2. **Transparent and independent appointments-** through a multi-stakeholder selection process to insulate CBFC from political influence.
3. **Establish an independent appellate tribunal-** restoring a quick, expert, affordable forum for appeals in place of the abolished FCAT
4. **Publish detailed reasons for every decision-** mandating clear, written, and public reasons to enhance transparency and consistency.
5. **Strict timelines for certification-** statutory guarantees with remedies for delays, ensuring efficiency and reducing economic uncertainty.
6. **Better training and representation on panels-** appointing diverse experts and ensuring training on law and cultural sensitivity for informed decision-making.
7. **Protect certified films from arbitrary bans-** preventing state interference post-certification, except in extreme, judicially supervised cases.

Collectively, these reforms address the very issues that undermine CBFC's legitimacy: regulatory overreach, political dependency, delays, and lack of transparency. They reflect a shift from ad-hoc censorship towards structured certification, in harmony with constitutional guarantees under Article 19(1)(a) and the reasonable restrictions of Article 19(2).

In closing, this project demonstrates that CBFC's future lies in embracing its role as a certifying, not censoring, authority. By implementing the suggested reforms, the Board can become a transparent, efficient, and autonomous regulator, capable of safeguarding creative freedom while responsibly discharging its governance role. Such transformation will not only reduce litigation and controversy but also strengthen the credibility of India's film regulation system. Ultimately, a reformed CBFC will reflect the spirit of a constitutional democracy,

balancing governance with liberty, authority with accountability, and regulation with respect for the vibrancy of creative expression.