



A STUDY ON THE SWAY OF THE FILM CERTIFICATION OF CBFC ON SUPPRESSING THE FREEDOM OF EXPRESSION IN FILM MAKERS

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Abstract

Federico Fellini, the world renowned film director says, “I don’t like the idea of “understanding” a film. I don’t believe that rational understanding is an essential element in the reception of any work of art. Either a film has something to say to you or it has not. You don’t need it to be explained to you if you are moved by it whereas if not, no explanation can make you moved by it.” This indicates that the audiences are moved by films but film makers are moved by the fantastic, imaginative and the creative world and ultimately the reality of society. When it is presented through visual, audio, animation and special effects and narration, it might be thought provoking and with healthy criticism, fun filled, entertaining and so on and it transforms into the freedom of speech and expression of film makers. Let it be entertaining, thought provoking or critical, the audience will be the masters to mark the results of a film. So is it really necessary to censor or certify the film for the audience? This paper will analyse the role of Central Board of Film Certification and how their control over the films affect the freedom of expression of the film makers. The study is conducted by the analysis of opinions derived from film fraternities and the decisions of Supreme Court which have been passed over the years.

Everyone watch film as a means of entertainment and to an extent, a portrayal of society. But CBFC view the film before it reaches the audience and coerces the filmmaker into editing the original print and deciding what the public must watch apart from the filmmaker. Eventually this system of bringing down the scissors on the original print has often lead to controversial discussions and protests. The common opinion of filmmakers and the majority of the audience is that the cutting down of sequences from the original print by CBFC, becomes often due to the religious and political agenda of the board and more importantly it is the open suppression of the freedom of expression. Indians believe that they have constitutional right to freedom of speech, expression with respect and integrity towards the culture of society and the environment they live in. But more often than most there have been debatable opinions between the public and the bureaucrats of the government with respect to the freedom of speech and expression of each citizen.

According to Dr. B.R. Ambedkar, the discrimination and suppression of free speech and expression had begun around B.C 2000 since Aryans invaded India and Dr. B.R Ambedkar is the greatest revolutionist who annihilated this system and the rules of the Aryans. (Kallara Sukumaran: Brahmnism on the perspective of Dr. B.R. Ambedkar: 2014, pg: 15.) Constitutionally the core of Indian democracy is to be accepting of the diverse religions, culture and tradition of the society. And so he added that the political agenda of one religion will destroy the system of our democracy completely. The common opinion is that this destruction of democracy is what Indians are confronting at this moment in different forms.

One of the most important forms is the system of Indian administration, the bureaucracy that is often and openly influenced by the political agendas and currently it is manipulated very strongly according to the religious political agendas. Hence the filmmakers and majority of the audience strongly believe that this agenda primarily drives the administration of CBFC in censoring films. The CBFC was set up under the Ministry of Information and Broadcasting, Government of India. It is assigned by regulating the public exhibition of films under the provisions of the cinematography act in 1952 and was renamed constitutionally as Central Board of Film Certification in 1983. So the responsibility of the CBFC board is to certify the films based on the content that is encompassed in it. Legally there are four basic categories of certification of films. “U”-which stands for Unrestricted public exhibition and “A”- it is restricted to adult audiences. Later, two more categories were added in 1983. “U/A”- This category means unrestricted public exhibition subject to parental guidance for children below the age of 12 and finally “S” certification is restricted to specialised audiences such as doctors and scientists. It clearly indicates that the most important responsibility of CBFC is to certify the films but not to have them banned.

In the year 1970, Supreme Court decision on film censorship is the best example for the protection of free speech and expression of the filmmakers. It gave the Court the very first opportunity to discuss the constitutional protection of free speech in the media outside the traditional context of newspapers and magazines. K.A. Abbas, the petitioner, was an award winning film producer. The Board refused to screen his documentary “A Tale of Four Cities” with a “U” certificate due to the reason that it included scenes from a Bombay red-light district. The Board asked him to edit certain scenes from the documentary so as to qualify for a screening certificate. Since a documentary must be with factual documentation such as images, visuals and audio, the director refused to remove it because if done, the hard truth and harsh realities will not be portrayed as it is. Beyond



the scenario the film was refused to be certified as “U” which was exactly a suppression of the freedom of expression. That was the most important context of being aware of the constitutional protection of free speech and expression through media. Hence K. A. Abbas complained to the Supreme Court that the board was violating his freedom of expression. Based on this petition, the Chief Justice Hidayatullah wrote a well-reasoned and artful judgment for a unanimous constitution bench. He concluded stating “Censorship is a valid exercise of power in the interests of public morality and decency. It is in society’s interests and does not violate the freedom of speech and expression.” He also upheld certain government-issued guidelines used by film censors to certify films. The most important suggestion of Chief Justice was that the films can be treated differently from the other mediums of expression.

In the year 1989, in the case of S. Rangarajan and V.P. Jagjeevan Ram, the Supreme Court proclaimed, “If the film is unobjectionable and cannot constitutionally be restricted under Article 19 (2), the freedom of expression cannot be suppressed on account of threat of demonstration and processions or by threats of violence. That would tantamount to negation of the rule of law and surrender to blackmail and intimidation. It is the duty of the state to protect the freedom of expression since it is a liberty guaranteed against the State. The state cannot plead its inability to handle the hostile audience problem.” This leads to the need of redefining the responsibility of the CBFC. It also put forward the need for discussions on whether censoring films and protesting against the freedom of the artists is legally justified under Article 19 (2) of the Constitution of India or not. The ban on the ground of public order or obscenity sometimes might be justified. But the prohibition on the grounds that the film “hurts the pride of the people of the nation”, or hurts the religious sentiments of a community,” or that “it defies Indian sensibility,” or “it is women oriented,” or “it is against the Indian ethos or culture,” are clearly untenable. For such grounds are not covered by Article 19 (2) of the Constitution of India. Hence the filmmakers and the audience raise questions that when the Constitution protects the freedom of speech and expression very clearly, then on what basis does the CBFC hold the right to ban a film on such grounds which are not covered by the Article 19 (2).

The prominent filmmaker and actress Mrs. Geethu Mohandas says “If you (CBFC) start to curb the freedom of expression that this is how you should make the film, to story teller, this is how you should say it, is not fair. You have to give the choice to the audience either watch the film or not to watch the film. And since we have the system, what they (CBFC) can do is to just certify films.” The Vice Chairperson of The Kerala State Chalachithra Academy, Mrs. Bina Paul also had the same opinion, “It (CBFC) is not a censorship board but certifying board. They can certify after watching a film, and can mention whether this film is permissible or advisable for a sixteen year old to watch, but not suitable for an eight year old or ten year old to watch. So this is the role of a certifying board.” The opinion that was collected from a few filmmakers, film fraternities, film enthusiasts and even the general audience, agree that the responsibility of CBFC is to certify films for the exhibition under the four categories that are included under The Cinematography Act but have no right to ban a film which is exactly as The Constitution of India emphasises.

The Shyam Benagal Committee has submitted a report with the Information and Broadcasting Ministry, and proposed amendments such as taking away the CBFC’s power to demand cuts in a film. When Shyam Benagal asked the ministry officials to check the status of the report submitted by a special committee led by him in 2016, which suggested that the CBFC should limit its functioning on issuing certificates to movies and not impose censoring. In support of Shyam Benagal Committee report, film critic Omar Quereshi says, “Censorship’s rules and regulations are as archaic as it gets and these new recommendations are an upgradation on the lines of the American Association that has PG13 and PG18 and ‘approved for all audiences’ as per guidelines set for movies depending upon language and adult and violence quotient. And in any case the word ‘Censor’ is wrong. The Censor body was always meant to guide and certify but never to censor the original print. It reduces the freedom of expression to naught. Words like censorship are used in non-democratic countries. Not in our great grey democracy.”

But still film makers locked horns with CBFC, Director Ruchi Narain, whose animated film Hanuman ‘Da Damdaar’ faced censorship issues, says, “It is the simple truth. Government should govern. Reporters should report. Filmmakers should make films. Certification board should certify. If you start censoring everything you turn blank and have nothing to say.” In the history of filmmaking, it is not the only one director confronted these controversial issues but there are many and which has not begun just now; it is there from the very beginning of the history of filmmaking, perhaps the controlling and censoring on films and banning films are very strong at present. There are many films being denied permanently an audience and there are films that the audiences will never watch in its original print. Here is a short list of some honest yet beautiful films which tried to portray the hard truth and harsh realities of the society but ended up banned or had recuts; Final Solution, Black Friday, India’s Daughter, The girl with Dragon Tattoo, Water, Unfreedom, Masterzaade, Paanch, Aandhi, Garm Hawa, Sikkim, Main Hoon part time killer, Hawa ane dey, Amu, The pink Mirror, Fifty Shades of Grey, Fire, Urf Professor, Parzania and so on.



Films are a powerful medium as they are used all over the world for propagating various political and religious ideologies. But when films started to visualise the ugly realities of religion, politics, ethics and culture of the society, it has become a threat to the exploiters who mislead the crowd in the name of sentiments related to these associations and organisations. It clearly indicates that the healthy criticism is not accepted or analysed with a mature sense. It also must be noticed that how the other countries of the world look upon our nation while we generally appraise ourselves as the world's best diverse cultured nation and that the soul of India is unity in diversity.

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